



COUNTY OF LOS ANGELES

CHIEF INFORMATION OFFICE

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May 10, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVE SOFTWARE SERVICES MASTER AGREEMENT
WITH COGNOS CORPORATION
(All Districts Affected) (3 Votes)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and instruct the Chairman of the Board to sign the proposed Software Services Master Agreement (Agreement) with Cognos Corporation (Cognos) for Business Intelligence (BI) professional services. The base term of the proposed Agreement is three (3) years with your Board's option to extend the Agreement for two (2) additional two-year periods. The total of all monies paid to Contractor under this Agreement shall not exceed \$4,000,000, inclusive of any extension period(s). The Agreement will be effective upon execution by your Board.
2. Delegate to the Chief Information Officer (CIO), pursuant to the terms of the Agreement, the authority at his discretion to approve and execute Work Orders on the behalf of County departments for software services requested under this Agreement having a maximum sum of \$100,000.
3. Adopt the competitively selected Cognos Business Intelligence software as the County of Los Angeles standard for business intelligence and ad hoc reporting software.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The proposed Agreement provides County departments with consulting services to aid in the development and implementation of Business Intelligence applications to provide consistent ad hoc reporting and development of data warehouses or datamarts that will assist departments in tracking their performance count measurements as specified in the County's Strategic Plan Update. The proposed Agreement offers the flexibility necessary to meet varied departmental needs while providing a structure for acquiring needed services through a streamlined acquisition process that is standard across the entire enterprise. Under the Work Order issuance process, individual department heads will have discretion and accountability for their respective projects.

All consulting services established with the proposed Agreement will be required to be entered into the County's Information Technology Tracking System (ITTS), with defined deliverables delineated. My office will provide centralized oversight on both the initiation of projects and the review of performance against the established Work Orders.

Approval of this Agreement by your Board will enable County departments to better plan, design and implement their Business Intelligence and reporting applications by providing departments with:

- An easily accessible master agreement for consulting services,
- Business Intelligence training for the County's workforce,
- Knowledgeable professional resources that can assist the County in the design of its reporting infrastructure to ensure timely and accurate reporting, and
- Installation services to assist the County in implementing the designed reporting infrastructure.

Implementation of Strategic Plan Goals

The recommended action supports the County's Strategic Plan Goal Number 3: Organizational Effectiveness. The Agreement will enable County departments to improve their ability to promptly respond to your Board's request for information, as well as meeting those Strategic Plan Goals and Objectives requiring systems that measure and report progress towards improving departmental outcomes.

As the County continues to deploy Business Intelligence applications to track performance count measurements, the proposed Agreement will play an increasing role in achieving the County's Strategic Plan Goals and Objectives.

BACKGROUND

In May 2004, Cognos was selected as an enterprise Business Intelligence software solution for the County of Los Angeles. The selection was a culmination of a countywide effort led by the Chief Information Office (CIO) in concert with five County departments to develop countywide Business Intelligence requirements, construct a Request For Proposals (RFP) using these requirements, and work with the Internal Services Department (ISD) to issue a competitive solicitation.

ISD's Purchasing/Materials Management Division released RFP No. 212707 for "Business Intelligence Software". The top Business Intelligence vendors were notified of the RFP and the RFP information was made available on the County's small business website for additional vendors to review. Following a mandatory bidders' conference, the County received 10 proposals for evaluation.

Proposals were read and evaluated by the evaluation committee utilizing consensus scoring for each RFP section culminating with a total score for each proposal. The top five scoring vendors were interviewed for final consideration and were invited to demonstrate their Business Intelligence software. The evaluation committee narrowed the field to the two top vendors and conducted a second set of demonstrations based on accessing, manipulating, and reporting on actual County data. The highest rated vendor based on the evaluation criteria and the demonstration, Cognos Corporation, agreed to all of the County's terms and conditions without objection.

With the assistance of the Office of the County Counsel, a Business Intelligence Software License Agreement (SLA) with Cognos was finalized and executed by the County's Purchasing Agent on May 27, 2004. The SLA is primarily for the commodity purchase of Cognos software licenses and provides limited access to Cognos services.

Departments will continue to access the SLA for the purchase of Cognos software licenses but will access this Agreement for the installation services, training services, and consulting services that are needed to deploy the purchased software. Approval of this Agreement will provide departments with access to these services for deploying Cognos software products.

FISCAL IMPACT/FINANCING

By approving this Agreement, your Board is establishing the terms and conditions under which Cognos services will be acquired. The County is not obligated to expend any funds until a Work Order is executed. Each Work Order will be governed by the terms and conditions set forth in the proposed Agreement. Each Work Order must conform to the provisions of the Agreement, relating to the range of services, rates for the

respective services, reporting, and processes for the administration of the Agreement. Work Orders over \$100,000 shall be directed to your Board for approval by the respective departments. The maximum expenditure under this Agreement will not exceed four million dollars (\$4,000,000) for the potential seven (7) year term of the Agreement, including the optional extension periods. Funding will be obtained from departmental budgets. The Administration provisions of the Agreement require confirmation that funding is available before the individual Work Order is executed. My office will provide semi-annual reports to your Board on the usage of this Agreement.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The attached Software Services Master Agreement will enable departments to submit Work Orders for software installation, consulting services, employee training, design assistance and expertise in the use of Cognos Business Intelligence technology. Work Orders over \$100,000 shall be directed to your Board for approval by the respective departments. Work Orders of \$100,000 or less would be executed by the CIO.

The Agreement has been approved as to form by County Counsel. The Agreement contains all required contract provisions without objection, including those pertaining to compliance with the County's Child Support Program and consideration of GAIN/GROW participants for employment.

CONTRACTING PROCESS

A competitive solicitation for a Master Software License and Services Agreement was established to identify and select a business intelligence software as a standard and preferred product for the County of Los Angeles. The solicitation also included a statement of the County's intent to acquire the professional services needed for departments to implement the software standard. Following the competitive selection process, Cognos was selected as an enterprise Business Intelligence software standard for the County of Los Angeles. The Cognos Software License Master Agreement was signed May 27, 2004. The RFP contained provisions for departments accessing installation services, training services and consulting services for Cognos software. The SLA provides departments with access to Cognos software. Approval of this Software Services Agreement will provide departments with continued access to the installation services, training services and consulting services for Cognos software products as provided for in the original RFP.

Approval of this Agreement will enable departments to use Cognos professional services staff to provide BI software installation, consulting services, employee training, design assistance and expertise in the use of Cognos business intelligence technology. The proposed Agreement for the provision of BI professional services for the County of Los Angeles will provide the following services:

- Business Intelligence training for County employees to provide them with a business intelligence skill set that increases the County's ability to manage its wealth of data and provide more comprehensive, timely and accurate information to County management and the public.
- Business Intelligence expertise for developing common metadata and designing the Business Intelligence server architecture needed to combine and to report on the County information stored across departmental boundaries.
- Business Intelligence expertise to design dashboards and balanced scorecards that deliver near real time access of the County information as opposed to batch reports for daily executive decision-making.
- Business Intelligence expertise in designing datamarts and data warehouses for compatibility with Cognos Business Intelligence products.

IMPACT ON CURRENT SERVICES/PROJECTS

The proposed Agreement will provide County departments with access to Cognos Consulting Services for their Business Intelligence and reporting applications. There will be no impact upon, or interruption of, the current services being provided by Cognos.

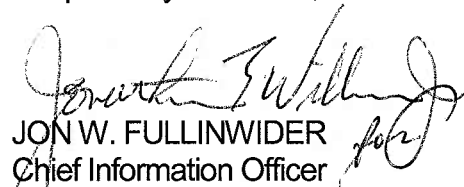
The formal adoption of Cognos as the County's Business Intelligence and ad hoc reporting software standard will improve departments' ability to share data across organizations and improve the timeliness and accuracy of the information derived from the data. Additionally, the focus on a common reporting tool set will reduce the cost of training as employees move between departments.

The Honorable Board of Supervisors
May 10, 2005
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CONCLUSION

Upon approval by your Board, it is requested that the Executive Officer-Clerk of the Board return one (1) adopted copy of the Board letter and three (3) executed copies of this Agreement to the Chief Information Office for further processing.

Respectively submitted,


JON W. FULLINWIDER
Chief Information Officer

JWF:JH:ygd

Attachment

c: Chief Administrative Officer
County Counsel
Executive Officer, Board of Supervisors
Information Systems Commission



SOFTWARE SERVICES AGREEMENT

BY AND BETWEEN

THE COUNTY OF LOS ANGELES

AND

COGNOS CORPORATION

FOR

**BUSINESS INTELLIGENCE
SOFTWARE SERVICES**

FEBRUARY 2005

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THIS SOFTWARE SERVICES AGREEMENT (hereinafter "Agreement") is entered this 24th day of February, 2005 by and between the County of Los Angeles (hereinafter "County") and Cognos Corporation, a Delaware corporation (hereinafter "Contractor").

1. RECITALS

WHEREAS, Contractor is a manufacturer and supplier of Business Intelligence products and performance management systems; and

WHEREAS, Contractor is in the business of consulting, licensing, installing, supporting and training on the use of its BI software; and

WHEREAS, on May 27, 2004, County and Contractor entered into a Software License Agreement (hereinafter "Software License Agreement" or "SLA") pursuant to a Request for Proposals (hereinafter "RFP") Number 212707 for a Business Intelligence Software (hereinafter "BIS") solution for report generation and a report delivery framework by Contractor; and

WHEREAS, Contractor, as the manufacturer of the Business Intelligence software, possesses the necessary special skills, knowledge, technical competence and sufficient staffing to provide all services required under this Agreement in the most cost effective manner; and

WHEREAS, Contractor desires to provide, and County desires to acquire from Contractor, such Business Intelligence services, including consulting, technical support, installation and training, at prices indicated herein.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, County and Contractor agree as follows:

2. APPLICABLE DOCUMENTS

2.1 The provisions of this document, along with Exhibits A, B, C, D, E, F, G and H, attached hereto, and Exhibit I, not attached hereto, all described in Paragraph 2.2 below and incorporated herein by reference, collectively form and throughout and hereinafter are referred to as the "Agreement".

2.2 In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule or the contents or description of any task, deliverable, service or other work, or otherwise, between and/or among this base document and/or the Exhibits and the Schedules and Attachments thereto, or between the Exhibits and the Schedules and Attachments thereto, such conflict or inconsistency shall be resolved by giving precedence first to the body of the Agreement, and then to the Exhibits and the Schedules and Attachments thereto, according to the following descending priority:

Exhibit A	Description of Services
Attachment 1	Installation Services
Attachment 2	Training Services
Attachment 3	Business Intelligence (BI) QuickStart Services
Attachment 4	Professional Services
Attachment 5	Consulting Services
Exhibit B	Pricing Schedule
Exhibit C	Work Order Process
Attachment 1	Work Order Submission Form
Attachment 2	Work Order Statement of Services (SOS)
Attachment 3	Work Order Payment Schedule
Attachment 4	Work Order Project Schedule
Attachment 5	Work Order Acceptance Form
Exhibit D	Change Order Process
Attachment 1	Change Order Submission Form
Attachment 2	Change Order Statement of Services (SOS)
Attachment 3	Change Order Payment Schedule
Attachment 4	Change Order Project Schedule
Exhibit E	Contractor Employee Acknowledgment, Confidentiality and Assignment Agreement
Exhibit F	Contractor's EEO Certification
Exhibit G	Business Associate Protected Health Information Disclosure Agreement
Exhibit H	Baby Surrendered Law
Exhibit I	Software License Agreement (SLA) for Business Intelligence Software between the County of Los Angeles and Cognos Corporation, dated May 27, 2004 (Incorporated herein by Reference)

Notwithstanding the foregoing precedence, the Work Order with respect to each BI Services project shall have the highest precedence as it relates to the Statement of Services, including but not limited to the Acceptance Criteria, Initial Acceptance and Final Acceptance definitions, the Warranty Period, the Data Refresh Period and the Data Refresh Event, if applicable.

3. DEFINITIONS

The terms and phrases in this Paragraph 3 in quotes and with initial letter capitalized, where applicable, shall have the meanings set forth below when used in this Agreement, throughout and hereafter.

Acceptance; Accept(ed)

As used herein, the terms "Acceptance" and "Accepted" shall mean County's written approval of the Services provided by Contractor under this Agreement.

Acceptance Certificate

As used herein, the term "Acceptance Certificate" shall mean County's execution of Attachment 5 (Work Order Acceptance Form) to Exhibit C (Work Order Process) signifying Contractor's successful completion of the applicable tasks, subtasks, milestones, deliverables, Services and other work in accordance with the requirements and timetables set forth in the executed Work Order Statement of Services, including the Acceptance Criteria, as amended by any fully executed Change Order(s) thereto.

Acceptance Criteria

As used herein, the term "Acceptance Criteria" shall mean agreed upon objective standards by which the parties will verify that the Services meet or exceed the requirements for Initial Acceptance and Final Acceptance under the applicable Work Order Statement of Services, as amended by any fully executed Change Order(s) thereto, in accordance with Section 5 (Work Order Acceptance Criteria).

Acceptance Date

As used herein, the term "Acceptance Date" shall mean the date on which County issues a written Acceptance Certificate as provided in the applicable Work Order, including the Project Schedule.

Acceptance Form

As used herein, the term "Acceptance Form" shall mean fully executed Attachment 5 (Work Order Acceptance Form) to Exhibit C (Work Order Process).

Acceptance Test; Acceptance Testing

As used herein, the terms "Acceptance Test(s)" and "Acceptance Testing" shall refer to testing of Contractor's Services under Work Orders, as amended by any fully executed Change Orders thereto, in accordance with the applicable Acceptance Criteria.

Blended Rate

As used herein, "Blended Rate" shall mean the fully burdened hourly rate set forth in Exhibit B (Pricing Schedule) and the applicable Work Order, at which Contractor's personnel shall perform Services under this Agreement, which such rate shall include an allocated average of direct and indirect costs, overhead, administrative expenses, and any other incidental expenses attributable to each personnel hour worked. Blended Rate shall not include any Out-of-Pocket Expenses that may be incurred in the course of performing Services hereunder and which shall be billed separately and reimbursed in accordance with Exhibit B (Pricing Schedule) and the applicable Work Order.

Business Associate

As used herein, the term "Business Associate" shall have the meaning set forth in

Exhibit G (Business Associate Protected Health Information Disclosure Agreement).

Business Day(s)

As used herein, the term "Business Day(s)", whether singular or plural, shall mean any day(s) of eight (8) working hours during a single day from 8:00 a.m. to 5:00 p.m. Pacific Time (PT), Monday through Friday, excluding County observed holidays.

Business Intelligence; BI

As used herein, the terms "Business Intelligence" and "BI" shall have the standard industry meaning, including the one provided in the SLA.

Business Intelligence Initiate; BI Initiate

As used herein, the terms "Business Intelligence Initiate" and "BI Initiate" shall mean Contractor's standard service package for deployment, planning, quality assurance checkup and training related to its BI software.

Business Intelligence QuickStart; BI QuickStart

As used herein, the terms "Business Intelligence QuickStart" and "BI QuickStart" shall refer to the Services based on Contractor's BI Initiate package, as described in Attachment 3 (Business Intelligence (BI) QuickStart) to Exhibit A (Description of Services), which shall be provided by Contractor under this Agreement in accordance with a fully executed Work Order for such Services with all Attachments thereto, as amended by any fully executed Change Order(s) thereto.

Business Intelligence Service Package(s); BI Service Package(s)

As used herein, the terms " Business Intelligence Service Package(s)" and "BI Service Package(s)", whether singular or plural, shall mean any one of Contractor's standard BI service packages offered to its customers during the term of this Agreement, including but not limited to Contractor's BI Initiate services, which shall made available by Contractor to County during the term of the Agreement. If elected by County, BI Service Packages shall be provided by Contractor to County under this Agreement in accordance with a fully executed Work Order with all Attachments thereto, as amended by any fully executed Change Orders thereto. All services under BI Service Packages so acquired under this Agreement shall be deemed Services for the purpose of this Agreement.

Change Order

As used herein, the term "Change Order" shall mean a change order duly authorized under the terms of this Agreement against an open Statement of Services in accordance with Exhibit C (Change Order Process) with all Attachments thereto.

CIO

As used herein, the term "CIO" shall mean County's Chief Information Officer.

COLA

As used herein, the term "COLA" shall have the meaning set forth in Paragraph 19 (Cost of Living Adjustment (COLA)).

Consulting Services

As used herein, the term "Consulting Services" shall refer to fixed price based Services described in Attachment 5 (Consulting Services) to Exhibit A (Description of Services), which shall be provided by Contractor under this Agreement in accordance with a fully executed Work Order for such Services with all Attachments thereto, as amended by any fully executed Change Order(s) thereto.

Contractor; Cognos

As used herein, the terms "Contractor" and "Cognos" shall mean Cognos Corporation.

Contractor's Project Director

As used herein, the term "Contractor's Account Manager" shall have the meaning set forth in Paragraph 5.1 (Contractor's Project Director).

Contractor's Project Manager

As used herein, the term "Contractor's Project Manager" shall have the meaning set forth in Paragraph 5.2 (Contractor's Project Manager).

Contractor's Work Order Consultant

As used herein, the term "Contractor's Work Order Consultant" shall have the meaning set forth in Paragraph 5.3 (Contractor's Work Order Consultant).

County

As used herein, the term "County" shall mean the County of Los Angeles, California.

County's Project Director

As used herein, the term "County's Project Director" shall mean County's Chief Information Officer who is designated hereunder as the individual with overall responsibility for the administration of this Agreement on County's behalf, as set forth in Paragraph 4.1 (County's Project Director).

County's Project Manager

As used herein, the term "County's Project Manager" shall mean the individual

designated by County to administer the operations under this Agreement, as set forth in Paragraph 4.2 (County's Project Manager).

Covered Entity

As used herein, the term "Covered Entity" shall have the meaning set forth in Exhibit G (Business Associate Protected Health Information Disclosure Agreement).

Data Refresh Event

As used herein, the term "Data Refresh Event" shall mean a point in time when the data for which the Work Order project was initiated is updated or refreshed, as further defined in the Work Order Statement of Services.

Data Refresh Period

As used herein, the term "Data Refresh Period" shall mean a period of time containing a Data Refresh Event. The Data Refresh Period shall be thirty (30) days, unless specified otherwise in the Work Order Statement of Services for the applicable Work Order.

Day(s)

As used herein, the term "day(s)", whether singular or plural, shall mean calendar day(s) and not business day(s), unless otherwise expressly specified.

Deficiency(ies)

As used herein, the term "Deficiency(ies)", whether singular or plural, shall mean and include defect(s) in any of the work relating to design, materials or workmanship; error(s); omission(s); failure(s) to at least meet, if not exceed, published or mutually agreed upon standards or any of the specifications set forth in this Agreement or in any Work Order Statement of Services issued hereunder; or other problem(s) which result in the Services not meeting the Acceptance Criteria established in the applicable Statement of Services.

Deliverable(s)

As used herein, the term "deliverable(s)", whether singular or plural, shall mean any task(s), subtask(s), deliverable(s), good(s), service, work or other legal consideration provided or to be provided by Contractor under this Agreement under a fully executed Work Order, as amended by any fully executed Change Order(s) thereto, including those items identified in Exhibit A (Description of Services) with all Attachments thereto.

Department(s)

As used herein, the term "Department(s)", whether singular or plural, shall mean any

one of County's department(s) acquiring Services under this Agreement under a fully executed Work Order, as amended by any fully executed Change Order(s) thereto.

Department Project Manager

As used herein, the term "Department Project Manager" shall mean the individual designated by County with responsibility for day-to-day supervision of any and all Services provided by Contractor under Statements of Services issued under this Agreement, as set forth in Paragraph 4.3 (Department Project Manager).

Dispute Resolution Procedure

As used herein, the term "Dispute Resolution Procedure" shall mean the procedure for resolution of the disputes arising under this Agreement described in Paragraph 70 (Dispute Resolution Procedure).

Documentation

As used herein, the term "Documentation" shall mean any and all written and electronic publications relating to the Services, such as reference, user, installation, systems administrator and technical guides, delivered, or otherwise made available, by Contractor to County as part of its Services.

Effective Date

As used herein, the term "Effective Date" shall mean the date of execution of this Agreement by County and Contractor.

Extended Term(s)

As used herein, the term "Extended Term(s)", whether singular or plural, shall have the meaning set forth in Paragraph 11 (Term).

Final Acceptance

As used herein, the term "Final Acceptance" shall have the meaning set forth in Section 8 (Work Order Final Acceptance) of Exhibit C (Work Order Process) and the applicable Work Order.

Fiscal Year

As used herein, the term "Fiscal Year" shall mean the twelve (12) month period beginning July 1st and ending the following June 30th.

HIPAA

As used herein, the term "HIPAA" shall mean Health Insurance Portability and Accountability Act of 1996, as further defined in Exhibit G (Business Associate

Protected Health Information Disclosure Agreement), which mandates the safeguards of personal and confidential medical information.

Initial Acceptance

As used herein, the term "Initial Acceptance" shall have the meaning set forth in Section 6 (Work Order Initial Acceptance) of Exhibit C (Work Order Process) and the applicable Work Order.

Initial Term

As used herein, the term "Initial Term" shall have the meaning set forth in Paragraph 11 (Term).

Installation; Installed

As used herein, the terms " Installation" and "Installed" shall refer to on-site and remote installation Services described in Attachment 1 (Installation Services) to Exhibit A (Description of Services), which shall be provided by Contractor under this Agreement in accordance with a fully executed Work Order for such Services with all Attachments thereto, as amended by any fully executed Change Order(s) thereto.

Non-Consulting Services

As used herein, the term "Non-Consulting Services" shall mean other than Consulting Services provided by Contractor under this Agreement, including, but not limited to, Installation, Training, BI Startup and Professional Services and BI Service Packages.

Out-of-Pocket Expenses

As used herein, "Out-of-Pocket Expenses" shall mean Contractor's reasonable and necessary expenditures for Contractor's staff transportation, meals, and lodging not to exceed the limits set forth in the then current Chapter 5.40 (Travel and Other Expenses) of the Los Angeles County Code.

Payment Schedule

As used herein, the term "Payment Schedule" shall mean Attachment 3 (Work Order Payment Schedule) to Exhibit C (Work Order Process) providing for a schedule of payments for the milestones, tasks, subtasks and deliverables to be performed under a particular Work Order, as amended by any fully executed Change Orders thereto, including Attachment 3 (Change Order Payment Schedule) to Exhibit D (Change Order Process).

Pricing Schedule

As used herein, the term "Pricing Schedule" shall mean the schedule of prices for

Services provided by Contractor to County under this Agreement, as set forth in Exhibit B (Pricing Schedule).

Production Use

As used herein, the term "Production Use" shall have the meaning set forth in Section 7 (Work Order Production Use) of Exhibit C (Work Order Process) and the applicable Work Order.

Professional Services

As used herein, the term "Professional Services" shall refer to time and materials based Services described in Attachment 4 (Professional Services) to Exhibit A (Description of Services), which shall be provided by Contractor under this Agreement in accordance with a fully executed Work Order for such Services with all Attachments thereto, as amended by any fully executed Change Order(s) thereto.

Project Schedule

As used herein, the term "Project Schedule" shall mean Attachment 4 (Work Order Project Schedule) to Exhibit C (Work Order Process) providing for a schedule of the milestones, tasks, subtasks and deliverables to be performed under a particular Work Order, as such may be amended by any fully executed Change Order(s) thereto, including Attachment 4 (Change Order Project Schedule) to Exhibit D (Change Order Process).

Service(s)

As used herein, the term "Service(s)", whether singular or plural, shall mean any Installation, Training, BI QuickStart, Professional and Consulting services, BI Service Packages and other work provided by Contractor to County under this Agreement.

Service Unit(s); SU(s)

As used herein, the terms "Service Unit(s)" and SU(s), whether singular or plural, shall have the meaning set forth in Section I.1 (Service Units) of Exhibit B (Pricing Schedule).

Services Product(s)

As used herein, the term "Services Product(s)", whether singular or plural, shall have the meaning set forth in Paragraph 21.1.

Software

As used herein, the term "Software" shall mean the Cognos suite of Business Intelligence software licensed to County by Cognos under the SLA.

Specifications

As used herein, the term "Specifications" shall have the meaning set forth in the SLA.

State

As used herein, the term "State" shall mean the State of California.

Statement of Services; SOS

As used herein, the terms "Statement of Services and "SOS" mean Attachment 1 (Work Order Statement of Services) to Exhibit C (Work Order Process) describing the milestones, tasks, subtasks and deliverables to be performed under a particular Work Order, as amended by any fully executed Change Order(s) thereto, including Attachment 2 (Change Order Statement of Services (SOS)) to Exhibit D (Change Order Process).

Training

As used herein, the term "Training" shall refer to application, technical, administrative and business training described in Attachment 2 (Training Services) to Exhibit A (Description of Services), which shall be provided by Contractor under this Agreement in accordance with a fully executed Work Order for such Services with all Attachments thereto, as amended by any fully executed Change Order(s) thereto.

Warranty Period

As used herein, the term "Warranty Period" shall have the meaning set forth in Paragraph 9.1 (Work Order Warranties) and the applicable Work Order.

Work Order(s)

As used herein, the term "Work Order(s)", whether singular or plural, shall mean a fully executed project ordering document for Services to be provided by Contractor from time to time upon County's request and approval in accordance with this Agreement. Each Work Order executed under this Agreement shall contain at a minimum Attachments 1 (Work Order Form), 2 (Work Order Statement of Services (SOS)), 3 (Work Order Payment Schedule), 4 (Work Order Project Schedule) and 5 (Work Order Acceptance Form) to Exhibit C (Work Order Process), as amended by any Change Order(s) thereto, including Attachments 1 (Change Order Submission Form), 2 (Change Order Statement of Services (SOS)), 3 (Change Order Payment Schedule) and 4 (Change Order Project Schedule) to Exhibit D (Change Order Process), referencing this Agreement and identifying and describing the Services acquired by County from Contractor under each Work Order. Each such Work Order shall be subject to this Agreement.

Working Hours

As used herein, "Working Hours" means one of the following work schedules, according to individual County department policy, excluding County holidays:

- A. "5/40", which is normally 8 hours per day Monday through Friday ("Working Days"), with starting and ending times departmentally established;
- B. "9/80", which is a flexibly arranged 9 hours on each of eight Working Days in a given two-week period, plus 8 hours arranged, per department policy, on the ninth Working Day; or
- C. "4/40", which is normally ten hours on each of four fixed Working Days each week, with starting and ending times departmentally established.

4. ADMINISTRATION OF AGREEMENT - COUNTY

4.1 County's Project Director

4.1.1 County's Project Director for this Agreement shall be County's Chief Information Officer or his/her designee.

4.1.2 County will notify Contractor in writing of any change in the name or address of County's Project Director.

4.1.3 County's Project Director will be responsible for ensuring that the objectives of this Agreement are met.

4.1.4 County's Project Director will have the right at all times to inspect any and all Services provided by or on behalf of Contractor pursuant to this Agreement.

4.2 County's Project Manager

4.1 County's Project Manager shall be the following person or his/her designee:

*Jonathan Williams
County of Los Angeles
Chief Information Office
500 West Temple Street, Room 493
Los Angeles, CA 90012*

4.2.2 County's Project Manager will be responsible for ensuring that the technical standards and requirements of this Agreement are met.

4.2.3 County's Project Manager will advise County's Project Director as to Contractor's performance with respect to requirements and technical standards.

4.2.4 County's Project Manager is not authorized to make any changes in any of the terms and conditions of this Agreement and is not authorized to further obligate County in any respect whatsoever.

4.2.5 County will notify Contractor in writing of any changes in the name or address of County's Project Manager.

4.2.6 County's Project Manager will provide technical direction to Contractor in the areas relating to County policy, information requirements and procedural requirements.

4.3 Department Project Manager

4.3.1 Department Project Manager shall be the person designated by the Department to manage each Work Order on behalf of the applicable Department.

4.3.2 Department Project Manager will be responsible for ensuring that the technical standards and requirements of individual Work Orders are met.

4.2.3 Department Project Manager will advise County's Project Manager as to Contractor's performance with respect to requirements and technical standards.

4.2.4 Department Project Manager is not authorized to make any changes in any of the terms and conditions of this Agreement and is not authorized to further obligate County in any respect whatsoever.

4.2.5 Department Project Manager will provide technical direction to Contractor in the areas relating to the individual Department's Work Order project information requirements.

4.4 Approval of Work Orders

All tasks, subtasks, deliverables, Services and other work provided by Contractor under this Agreement must be prepared and provided solely as specified under this Agreement and must have requisite County written approval as evidenced by a fully executed Work Order and any Change Order(s) thereto on behalf of County in order to qualify for payment. In no event shall County be liable or responsible for any payment of such tasks, subtasks, deliverables, Services or other work prior to or without County's written approval thereof in accordance with the terms of this Agreement, including Work Order and Change Order approval described in Exhibit C (Work Order Process) and Exhibit D (Change Order Process) respectively.

5. ADMINISTRATION OF AGREEMENT - CONTRACTOR

5.1 Contractor's Project Director

5.1.1 Contractor's Project Director shall be the following person who shall be a full-time employee of Contractor:

Jeffrey J. Ott
Cognos Corporation
Two Discovery Square
12012 Sunset Hills Road, Suite 500
Reston, VA 20190

5.1.2 Contractor's Project Director shall responsible for Contractor's performance of all Services hereunder and ensuring Contractor's compliance with this Agreement.

5.1.3 From the Effective Date through the expiration of the term of this Agreement, Contractor's Project Director shall be available to meet and confer with County's Project Director at least monthly in person or by phone, to review project progress and discuss project coordination.

5.1.3 Contractor will notify County in writing of any changes in the name or address of Contractor's Project Director.

5.2 Contractor's Project Manager

5.2.1 Contractor's Project Manager shall be the following person who shall be a full-time employee of Contractor:

Christopher M. Hecht
Cognos Corporation
2020 Main Street, Suite 750
Irvine, CA 92614

5.2.2 Contractor's Project Manager shall be responsible for Contractor's day-to-day activities as related to this Agreement and for reporting to County in the manner set forth in Paragraph 5.4 (Project Status Reports by Contractor).

5.2.2 Contractor's Project Manager shall responsible for Contractor's performance of all its tasks and subtasks and ensuring Contractor's compliance with this Agreement.

5.2.3 From the Effective Date through the expiration of the term of this Agreement, Contractor's Project Manager shall meet and confer with County's Project Manager on a regular basis to review project progress and discuss project coordination. Such meetings shall be conducted at a time and place convenient to County's Project Manager.

5.2.4 Contractor will notify County in writing of any changes in the name or address of Contractor's Project Manager.

5.3 Contractor's Work Order Consultant

5.3.1 If required by County, Contractor shall designate a consultant (hereinafter "Contractor's Work Order Consultant") for Work Orders executed under the

Agreement.

- 5.3.2 Contractor's Work Order Consultant will be responsible for Contractor's performance of all its individual Work Order tasks and subtasks and ensuring Contractor's compliance with this Agreement.
- 5.3.3 Contractor's Work Order Consultant shall work closely with the Department Project Manager on completing the Services under the assigned Work Order.
- 5.3.4 Contractor's Work Order Consultant will advise County's Project Manager as to Contractor's performance with respect to requirements and technical standards.
- 5.3.5 Contractor will notify County in writing of any changes in the name or address of Contractor's Work Order Consultant prior to completion of the assigned Work Order.

5.4 Approval of Contractor's Staff

- 5.4.1 In fulfillment of its responsibilities under this Agreement, Contractor shall utilize, and permit utilization of, only staff fully trained and experienced, and as appropriate, licensed or certified in the technology, trades, tasks and subtasks required by this Agreement. Contractor shall supply sufficient staff to discharge its responsibilities hereunder in a timely and efficient manner.
- 5.4.2 County has the absolute right to approve or disapprove each member, or proposed member, of Contractor's staff performing work under this Agreement prior to and during their performance of any work hereunder, as well as so approving or disapproving any proposed deletions from or other changes in such staff. County's Project Manager may require replacement of any member of Contractor's staff performing, or offering to perform, work hereunder. Contractor shall provide County with a resume of each such proposed initial staff member and proposed substitute and an opportunity to interview such person prior to his/her performance of any work hereunder.
- 5.4.3 In addition, Contractor shall provide to County's Project Director an executed Contractor Employee Acknowledgment, Confidentiality and Assignment Agreement (Exhibit E) for Contractor's Project Director, Contractor's Project Manager, Contractor's Work Order Consultant and each Contractor employee performing work under this Agreement on or immediately after the Effective Date, but in no event later than the date Contractor's Project Director, Contractor's Project Manager, Contractor's Work Order Consultant or Contractor employee first performs work under this Agreement or gains access to any sensitive financial or personally identifiable information.
- 5.4.4 Contractor shall, to the maximum extent possible, take all necessary steps to ensure continuity over time of the membership of the group constituting Contractor's staff. Contractor shall promptly fill any staff vacancy with personnel having qualifications at least equivalent to those of the staff member(s) being replaced.

5.4.5 In the event Contractor should ever need to remove Contractor's Project Director, Contractor's Project Manager or Contractor's Work Order Consultant from performing work under this Agreement, Contractor shall provide County with notice at least fifteen (15) days in advance, except in circumstances in which such notice is not possible, and shall work with County on a mutually agreeable transition plan so as to provide an acceptable replacement and ensure project continuity. Should County be dissatisfied with Contractor's Project Director, Contractor's Project Manager or Contractor's Work Order Consultant, Contractor shall replace such person with another to County's satisfaction.

5.4.6 Contractor shall supply sufficient staff to discharge its responsibilities hereunder in a timely and efficient manner.

5.5 Reports by Contractor

In order to control expenditures and to ensure the reporting of all goods, services, and other work provided by Contractor, Contractor shall provide County's Project Manager, with a copy to County's Project Director, written monthly reports, which shall include, at a minimum, the following information:

- A. Period covered by the report.
- B. All Services, including any BI Service Packages, provided by Contractor during the reporting period.
- C. Issues resolved.
- D. Issues to be resolved.
- E. Any changes in Contractor's line of standard services, including BI Service Packages.
- F. Any other information which County may reasonably from time-to-time require.

6. SERVICES

6.1 Scope of Services

The Services provided under this Agreement shall include, at a minimum, Installation, BI QuickStart, Training, Professional and Consulting Services described in Exhibit A (Description of Services), with all Attachments thereto, and any BI Service Packages acquired by County from Contractor under this Agreement.

6.2 Standard of Services

Contractor shall provide all Services under this Agreement in a professional and workmanlike manner, as further provided herein.

7. WORK ORDERS

7.1 Work Order Process

When a Department has identified a need for Services under this Agreement, County shall initiate the process for execution of a Work Order for such Services identified in Exhibit C (Work Order Process) with all Attachments thereto. In no event shall County be liable or responsible for any Services performed without a Work Order properly executed and approved by County strictly in accordance with the process described in such Exhibit C (Work Order Process).

7.2 Change Order Process

Any changes to the Work Orders executed under this Agreement shall be performed only as provided in Exhibit D (Change Order Process), including all Attachments thereto. In no event shall County be liable or responsible for any Services performed without a Change Order properly executed and approved by County strictly in accordance with the process described in such Exhibit D (Work Order Process).

7.3 Work Order Termination

Notwithstanding anything to the contrary, all disputes with respect to either party's failure to perform or to fulfill its responsibilities under this Agreement is subject to the Dispute Resolution Procedure. In the event the parties following a Dispute Resolution Procedure fail to reach an agreement with respect to a Work Order, such Work Order may be terminated upon mutual agreement of both parties. After such Work Order termination:

7.3.1 Contractor shall:

- (1) Stop work under this Agreement on the agreed upon termination date;
- (2) Deliver to County all completed work and work in progress;
- (3) Complete performance of such part of the work as shall not have been terminated; and
- (4) Return to County all fees paid by County and unearned by Contractor according to the terms of this Agreement, including any prepaid fees with respect to any Services.

7.3.2 County shall compensate Contractor for all work performed under this Agreement up to the effective date of termination.

8. WORK ORDER ACCEPTANCE

Each Work Order executed under this Agreement shall be subject to Acceptance as provided in and in accordance with Exhibit C (Work Order Process) and such Work Order based on the Acceptance Criteria set forth therein before County issues an Acceptance Certificate with respect to any deliverables or Services performed by Contractor under such Work Order. To the extent applicable, Exhibit C (Work Order Process) and/or each Work Order will define what is meant by Acceptance Criteria,

Initial Acceptance, Production Use, Final Acceptance, Data Refresh Period, Data Refresh Event and the Warranty Period with respect to any deliverables or Services performed by Contractor under Work Orders. In the event of any conflict or inconsistency between the Work Order and Exhibit C (Work Order Process), the Work Order shall prevail.

9. WARRANTY

9.1 Work Order Warranties

For the purposes of this Paragraph 9.1 and the Agreement, the "Warranty Period" for any deliverables or Services performed by Contractor pursuant to a Work Order shall have the meaning set forth in Section 9 (Warranty Period) of Exhibit C (Work Order Process) and the applicable Work Order, including the Statement of Services. Contractor represents and warrants that during the Warranty Period Contractor shall provide all Services under this Agreement, including Professional, Consulting, BI QuickStart, Installation and Training Services and BI Service Packages, if any, without Deficiencies in accordance with the terms and conditions hereunder. Contractor warrants that it shall promptly correct any and all Deficiencies in the tasks, deliverables, services and other work provided hereunder in accordance with this Paragraph 9. The correction of all such Deficiencies shall be at no cost to County during the Warranty Period.

County shall during the Warranty Period use the Work Order Services in accordance with the Work Order specifications, if applicable. In the event County reasonably finds that the Services do not meet the Work Order specifications as set forth in the applicable Work Order for such Services, County shall inform Contractor in writing how the Services are non-conforming, subject to The Dispute Resolution Procedure. Contractor shall re-perform any non-conforming Services at no additional charge. To the extent Contractor is unable to cure the Installation Services, BI QuickStart Services or BI Service Package Deficiencies by re-performance, Contractor shall, at County's sole option, refund to County all fees paid by County specifically for such non-conforming Services. Notwithstanding the foregoing, County's remedy for Contractor's breach of the Training and Installation Services warranty under this Paragraph 9 shall be limited to re-performance of such Services.

9.2 Further Warranties

Contractor further represents, warrants, covenants and agrees that during the term of this Agreement:

1. Contractor shall strictly comply with the specifications, requirements, standards, and representations set forth in this Agreement.
2. Contractor warrants that the Services will be performed in a professional and workmanlike manner and consistent with generally accepted industry standards.
3. All Documentation delivered under this Agreement shall be in accordance with Contractor standards.
4. In performance of its Services under the Agreement, Contractor shall not intentionally cause any unplanned interruption of the operations of, or accessibility to, any of

County's systems through any device, method or means including, without limitation, the use of any "virus," "lockup," "time bomb," or "key lock," "worm," device or program, or disabling code, which has the potential or capability of compromising the security of County's confidential or proprietary information or of causing any unplanned interruption of the operations of, or accessibility of, County's systems by County or users or which could alter, destroy, or inhibit the use of County's systems, or the data contained therein (collectively referred to as a "Disabling Device") which could block access to or prevent the use of County's systems by County or users. Contractor represents, warrants and agrees that it has not intentionally placed, nor is it aware of, any Disabling Device placed on County's systems in performance of its Services under this Agreement, nor shall Contractor knowingly permit any subsequently Services under this Agreement to cause placement of any Disabling Device on County's systems.

9.2 Warranty Pass-Through

Contractor shall pass through to County to the fullest extent possible, any applicable warranty or indemnity offered by any manufacturer of any third party software product that forms a part of the Services and which are provided by Contractor under this Agreement.

10. CHANGES NOTICES AND AMENDMENTS

10.1 Entire Agreement

The body of this Agreement, together with the Recitals and all Exhibits, Attachments and schedules, constitutes the complete and exclusive agreement between the parties and supersedes all previous and contemporaneous agreements, whether written or oral, and any and all communications and negotiations between the parties relating to the subject matter of this Agreement. Nothing in this Agreement shall be interpreted based upon any prior discussions and negotiations, or upon any additions or deletions made as a result thereof. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or provisions.

10.2 Agreement Changes

10.2.1 No representative of either County or Contractor, including those named in this Agreement, is authorized to make any changes in any of the terms, obligations, or conditions of this Agreement, except through the procedures required under this Paragraph 10.

10.2.2 County reserves the right to change any portion of the work required under a Work Order covered by this Agreement and to any other provisions of this Agreement. All such changes shall be accomplished only as provided in this Paragraph 10.

10.2.3 For any change requested by County which does not affect the scope of work, term, payments, Contract Sum or any term or condition included in this Agreement, a

Change Notice shall be prepared and executed by County's Project Manager.

- 10.2.4 Except as otherwise provided in this Agreement, for any change requested by County which affects the scope of work, term including extending the Agreement beyond the Initial Term, payments, Contract Sum or any term or condition included in this Agreement, a negotiated written Amendment to this Agreement shall be prepared and executed by each of County's authorized representative and Contractor's authorized representative.

10.3 Work Order Changes

Changes to the Work Orders under this Agreement shall be performed in accordance with Paragraph 7.2 (Change Order Process).

10.4 Facsimile

Except for the parties' initial signatures to this Agreement, which must be provided in "original" form and not by facsimile, County and Contractor hereby agree to regard facsimile representations of original signatures of authorized officials of each party, when appearing in appropriate places on the Change Notices prepared pursuant to this Paragraph 10 and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed to Change Notices to this Agreement, such that the parties need not follow up facsimile transmissions of such documents by subsequent (non-facsimile) transmissions of "original" versions of such documents.

11. TERM

Unless otherwise specified in this Agreement, the term of this Agreement shall commence on the Effective Date and shall expire three (3) years thereafter (hereinafter "Initial Term"), unless sooner terminated or extended, in whole or in part, as provided in this Agreement. Upon expiration of the Initial Term, or any Extended Term (as defined below), County and Contractor may, upon mutual agreement, renew this Agreement for additional two (2) consecutive two-year terms (hereinafter "Extended Term(s)") two (2) years at a time by executing an Amendment in accordance with Paragraph 10 (Change Notices and Amendments), provided that if this Agreement is not so extended, the remaining option(s) shall automatically lapse. As used herein, the term of this Agreement shall mean the Initial Term and any Extended Term(s).

12. CONTRACT PRICES AND FEES

- 12.1 Contractor shall provide all Services in accordance with the prices, terms and conditions set forth in this Agreement, including Exhibit B (Pricing Schedule), and the applicable Work Order payment terms specified in Attachment 3 (Work Order Payment Schedule) to Exhibit C (Work Order Process) attached to, and executed with, each Work Order, as amended by any fully executed Change Order(s) thereto. In the event the parties agree to extend the term of this Agreement for Extended

Term(s), the prices in Exhibit B (Pricing Schedule) shall be subject to COLA as set forth in Paragraph 19 (Cost of Living Adjustment (COLA)).

- 12.2 The Contract Sum shall be the total monetary amount payable by County to Contractor for supplying the Services under this Agreement. The Contract Sum, including all applicable taxes, authorized by County hereunder, shall not exceed Four Million Dollars (\$4,000,000).

13. DELIVERY AND RISK OF LOSS

Contractor shall bear the full risk of loss due to total or partial destruction of all tangible materials developed by Contractor under this Agreement until such items are delivered to County. All transportation and related insurance charges for shipment of Software shall be paid directly by Contractor to the applicable carrier. Contractor shall be solely liable and responsible for any and all transportation and related insurance charges.

14. INVOICES AND PAYMENTS

14.1 Approval of Invoices

All invoices submitted by Contractor for payment must have the written approval of County's Project Manager, or his/her designee, prior to any payment thereof. In no event shall County be liable or responsible for any payment prior to such written approval, which approval shall not be unreasonably withheld.

14.2 Invoices

14.2.1 Each invoice submitted by Contractor shall indicate:

- A. The identifying Work Order number;
- B. Services for which payment is claimed;
- C. The date of written notification of receipt of Services by County's Project Manager;
- D. Indication of any applicable withhold amount for payments claimed or reversals thereof;
- E. Indication of any applicable credits due County under the terms of this Agreement or reversals thereof.

- 14.2.2 Contractor shall invoice County for all Services and other work provided under this Agreement and approved in writing by County pursuant to the terms of this Agreement. All invoices shall be subject to County's written approval pursuant to Paragraph 14.1 (Approval of Invoices). All invoices under this Agreement shall be submitted to the bill-to address indicated on the applicable Work Order. County will

pay Contractor's invoices only for Services authorized under fully executed Work Orders and Accepted by County.

14.3 Sales/Use Tax

The fees set forth in the Payment Schedules shall include applicable California and other state and local sales/use taxes on all Services or products procured by County pursuant to or otherwise due as a result of this Agreement. All California sales/use taxes shall be paid directly by Contractor to the State or other taxing authority. Contractor shall be solely liable and responsible for any and all California and other state and local sales/use taxes billed by Contractor to County and paid by County to Contractor in accordance with this Agreement. In the event Contractor fails to pay such California or any other state or local sales/use tax and such taxes have been paid by County to Contractor, Contractor shall reimburse County for any and all tax amounts paid by County as a result of such failure and any attorneys' fees, including costs, associated therewith. In addition, Contractor shall be solely responsible for all taxes based on Contractor's income or gross revenue, or personal property taxes levied or assessed on Contractor's personal property to which County does not hold title.

14.4 Discrepancies

In the event discrepancies are found during the invoice review as provided in Paragraph 14.2.2 above, County's Project Manager, or his/her designee, will notify Contractor of such discrepancies and submit a list of disputed charges as soon as practicable, but no later than within thirty (30) days from the receipt of such disputed invoice by County. Contractor shall review the disputed charges and send a written explanation detailing the basis for the charges as soon as practicable, but no later than within thirty (30) days of receipt of County's notice of discrepancies and disputed charges. "Discrepancies" as used in this Paragraph 14 shall mean the details on the invoice or the receiving report which do not conform to the Payment Schedule.

If no notice of invoice discrepancies is received by Contractor within thirty (30) days from the date of County's receipt of the invoice, the invoice shall be deemed undisputed and qualified for payment in its entirety and County's written approval discussed in Paragraph 14.1 (Approval of Invoices) shall be deemed completed.

14.5 Payments

Unless otherwise specified herein, payment to Contractor shall be made in accordance with this Agreement and the applicable Work Order referencing this Agreement, provided Contractor is not in default under any provision of this Agreement. County shall pay all invoice amounts to Contractor within thirty (30) calendar days of receipt of invoices, provided that the Services have been Accepted in accordance with the applicable Work Order for such Services and Contractor's invoices have not been disputed pursuant to Paragraph 14.4 (Discrepancies) above. Unless otherwise specified herein, all payment obligations are non-cancelable, non-refundable and non-contingent.

14.6 County's Right to Withhold Payment

Notwithstanding any other provision of this Agreement, and in addition to any rights of County given by law or provided in this Agreement, County may upon written notice to Contractor withhold payment for any work under this Agreement while Contractor is in default hereunder, provided that Contractor has been notified of such default and such default has not been cured within thirty (30) days of notice from County, or at any time that Contractor has not provided to County Services under the applicable Work Order Statement of Services.

14.7 Contractor's Right to Withhold Performance

Notwithstanding any other provision of this Agreement, Contractor reserves the right to withhold performance of any obligations under this Agreement, in the event of County's nonpayment when due of any amounts due hereunder, provided that such nonpayment is not due to County disputing an invoice in accordance with Paragraph 14.4 (Discrepancies). Contractor shall provide County with at least thirty (30) days written notice of such nonpayment before any performance is withheld hereunder.

15. GRATUITOUS WORK

Contractor agrees that should work or services, other than those contemplated in fully executed Work Orders, as amended by any Change Order(s) thereto, be performed without the prior written modification of this Agreement in accordance with Paragraph 10 (Change Notices and Amendments), they are deemed gratuitous and Contractor shall have no claim.

16. INDEMNIFICATION AND LIMITATION OF LIABILITY

16.1 Indemnification

Contractor shall indemnify, defend and hold harmless County, its Special Districts, elected and appointed officers, employees, and agents from and against any and all third party liability, including but not limited to, demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with Contractor's acts and/or omissions arising from and/or relating to this Agreement. Any legal defense pursuant to Contractor indemnification obligations under this Paragraph 16 shall be conducted by Contractor and performed by counsel selected by Contractor. Notwithstanding the foregoing, County shall have the right to participate in any such defense at its sole cost and expense.

16.2 Limitation of Liability

16.2.1 The remedies specified in Paragraph 9 (Warranty) and Paragraph 21 (Intellectual Property Indemnification) are the sole and exclusive remedies provided for breach of the warranties herein.

- 16.2.2 County and Contractor agree that, with respect to other claims under this Agreement, neither party's liability for the actions arising out of or relating to this Agreement shall exceed the fees paid under the Agreement. Notwithstanding the foregoing, the provisions of this Paragraph 16.2 do not apply to any fraud, willful, intentional or grossly negligent misconduct of any nature by a party or (ii) any event giving rise to Contractor's obligations under Paragraph 21 (Intellectual Property Indemnification), or (iii) any claims relating to a violation of a party's intellectual property rights.
- 16.2.3 In no event shall either party be liable, under any cause of action of any kind arising out of or related to this Agreement, for any indirect, incidental, consequential, punitive or other special damages (including lost profits), even if a party has been advised of the possibility of such damages.

17. INSURANCE

17.1 Insurance Programs

Without limiting Contractor's indemnification of County and during the term of this Agreement, Contractor shall provide and maintain, and shall require all of its subcontractors to maintain, the following programs of insurance specified in this Agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County, and such coverage shall be provided and maintained at Contractor's own expense.

17.2 Insurance Coverage Requirements

- 17.2.1 General Liability Insurance (written on ISO policy from CG 00 01 or its equivalent) with limits of not less than the following:

General Aggregate	\$2 million
Products/Completed Operations Aggregate	\$1 million
Personal and Advertising Injury	\$1 million
Each Occurrence	\$1 million

- 17.2.2 Professional liability insurance covering liability arising from errors, omissions or wrongful acts of Contractor, its officers or employees, in the performance of Services hereunder, with a combined single limit of not less than two million dollars (\$2,000,000) per claim.
- 17.2.3 Non-owned Automobile Liability Insurance with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all "non-owned" vehicles, or coverage for "any auto".
- 17.2.4 Intellectual Property Insurance covering any actual or alleged infringement of any copyright, patent or other rights of third party, and any actual trade secret disclosure or misappropriation. Insurance coverage limit will be at least \$1 million per occurrence. If this insurance is written on a claims made form, Contractor shall either (i) maintain such insurance through the period ending two (2) years following the

expiration or termination of this Agreement or (ii) obtain an endorsement on such insurance that provides an extended reporting period of not less than two (2) years following the termination or expiration of this Agreement or insurance policy, which ever is longer, or (iii) replace such claims made insurance coverage with equivalent coverage of the per occurrence form that covers the entire term of the Agreement. Contractor may satisfy the requirements of this Paragraph 17.2.4 through use of self-insurance. County will accept Contractors self-insurance coverage provided Contractor submits current audited financial statements throughout the term of this Agreement, so that County can evaluate these statements and confirm that Contractor has adequate financial resources to respond to claims in the above amount.

- 17.2.5 Workers' Compensation and Employers' Liability Insurance providing workers' compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Contractor is responsible. In all cases, the above insurance shall also include Employers' Liability coverage with limits of not less than the following:

Each Accident	\$1 million
Disease - Policy Limit	\$1 million
Disease - Each Employee	\$1 million

17.3 Evidence of Insurance

Certificate(s) or other evidence of coverage satisfactory to County shall be delivered to: Chief Information Office, 500 West Temple Street, Room 493, Los Angeles, CA 90012 prior to commencing Services under this Agreement. Such certificates or other evidence shall, at a minimum:

- (1) Specifically identify this Agreement;
- (2) Clearly evidence all coverages required in this Agreement;
- (3) Contain the express condition that County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance; and
- (4) The County of Los Angeles, its Special Districts, its officials, officers and employees, be listed on Commercial General Liability Policy as an additional insured designated organization but only with respect to liability arising out of Contractor's operations.

17.4 Insurer Financial Ratings

Insurance is to be provided by an insurance company with an A. M. Best rating of not less than A:VII or similar rating by a reputable rating agency, unless otherwise approved by County.

17.5 Notification of Incidents, Claims or Suits

Contractor shall report to County:

- (1) Any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against Contractor and/or County. Such report shall be made in writing within ten (10) days of occurrence.
- (2) Any third-party claim or lawsuit filed against Contractor arising from or related to services performed by Contractor under this Agreement.
- (3) Any injury to a Contractor employee which occurs on County property. This report shall be submitted on a "County Non-employee Injury Report" to County's Project Manager.
- (4) Any loss, disappearance, destruction, misuse or theft of any kind whatsoever of County property, monies or securities entrusted to Contractor under the terms of this Agreement.

17.6 Insurance Coverage Requirements for Subcontractors

All subcontractors performing work under this Agreement shall be subject to the insurance requirements of this Agreement and shall be maintained at no cost to County. Contractor shall ensure that any and all subcontractors performing services under this Agreement meet the insurance requirements of this Agreement by either:

- (1) Contractor providing evidence of insurance covering the activities of subcontractors, or
- (2) Contractor providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. County retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.

17.7 Failure to Maintain Coverage

Failure by Contractor to maintain the required insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of the contract, upon which County may immediately terminate or suspend this Agreement in accordance with Paragraph 26 (Termination for Default) and pursue any remedies to which it is entitled by law.

18. CONTRACTOR'S OBLIGATIONS UNDER HIPAA

Contractor shall comply with the provisions mandated by HIPAA as a Business Associate of County. Upon execution of this Agreement, but no later than commencing performance of Services hereunder, Contractor shall execute the Business Associate Agreement attached as Exhibit G (Business Associate Protected Health Information Disclosure Agreement). Should County amend the Business

Associate Agreement as is necessary to comply with the requirements of the Privacy and/or Security Regulations (as such terms are defined in the Business Associate Agreement), County shall execute a Change Notice in accordance with Paragraph 10 (Change Notices and Amendments), and Contractor shall execute the amended Business Associate Agreement immediately thereafter.

19. COST OF LIVING ADJUSTMENT (COLA)

Commencing upon the beginning of any Extended Term, the Blended Rate for Services performed hereunder may be adjusted annually based on the lesser of: (i) the most recently published percentage change in the U.S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index for the Los Angeles – Riverside – Orange County Area for Urban Consumers (CPI) for the twelve (12) month period preceding the end of such Extended Term; or (ii) the general salary movement percentage for County employees, as determined by County's Chief Administrative Office, as of the twelve (12) month period preceding the prior July 1 (hereinafter "COLA").

Furthermore, should fiscal circumstances ultimately prevent County's Board of Supervisors from approving any increase in County employee salaries, there shall be no corresponding adjustment to the Blended Rate for Services performed hereunder.

20. PROPRIETARY CONSIDERATIONS

20.1 County Materials

Contractor and County agree that all materials, plans, reports, Acceptance Criteria, applications, test plans, departmental procedures and processes, deliverables, data and any other information developed by County or by Contractor pursuant to and for delivery to County under this Agreement (collectively "County Materials"), and all copyrights, patent rights, trade secret rights and other proprietary rights therein shall be the sole property of County. Contractor hereby assigns and transfers to County all of Contractor's right, title and interest in and to all County Materials developed under this Agreement. Notwithstanding the foregoing or anything to the contrary contained elsewhere herein, Contractor reserves all rights in and to any materials, products, reports, computer programs (source and object code), deliverables, inventions, tools, software, documentation utilities and standards developed by Contractor or a third party prior to or independent of any Services and utilized to provide the Services (collectively, the "Pre-existing Materials"). County Materials shall not include any Pre-existing Materials and such Pre-existing Materials shall remain the exclusive property of Contractor or a third party at all times, including any copyright, patent or other intellectual property right therein. In the event (and to the extent) that the Services or County Materials contain any Pre-existing Materials or other items or elements which may be proprietary to Contractor or a third party, Contractor grants County a perpetual, non-exclusive, non-transferable license to use such Pre-existing Materials for County's internal purposes. Either party may (a) perform similar services or independently develop works competitive with or similar to the County Materials developed by Contractor for County, and (b) make use of the know-how acquired, principles learned or experience gained during the performance of the Services.

20.2 Transfer to County

During the term of this Agreement, Contractor shall execute all necessary documents, including Exhibit E (Contractor Employee Acknowledgment, Confidentiality and Assignment Agreement), and shall perform all other acts to assign and transfer to, and vest interest in, County all Contractor's right, title and interest in and to the County Materials, including, but not limited to, all copyrights, patents and trade secret rights. County shall have the right to register all copyrights and patents in the name of the County of Los Angeles. Further, County shall have the right to assign, license or otherwise transfer any and all County's right, title and interest, including, but not limited to, copyrights and patents, in and to the County Materials.

20.3 Copyright Notice

As requested in writing by County's Project Manager, Contractor shall affix the following notice to applicable County Materials developed under this Agreement: "©copyright 200_ (or such other date of first publication), County of Los Angeles. All rights reserved". Contractor shall affix such notice as directed by County.

20.4 Contractor's Obligations

Contractor shall protect the security of and keep confidential all County Materials obtained or developed under this Agreement. Further, Contractor shall use all reasonable security measures necessary to protect all such County Materials from loss or damage by any cause, including fire and theft.

20.5 Proprietary and Confidential

The confidential information includes, without limitation, Contractor's materials properly marked as "Confidential" and County Materials, subject to the law, including the disclosure requirements set forth in the Public Records Act (hereinafter "Confidential Information"). Subject to California Public Records Act, neither party shall intentionally disclose the other party's Confidential Information, orally or in writing, to any third party without the prior written consent of the owner of such information, except as provided below. Each party shall use the other's Confidential Information solely for purposes consistent with this Agreement.

The parties shall protect each other's Confidential Information with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, which the receiving party utilizes for its own information that it does not wish disclosed to the public.

This Agreement imposes no obligation upon either party (hereinafter "Recipient") with respect to the other party's (hereinafter "Discloser's") Confidential Information which Recipient can establish by legally sufficient evidence: (a) was, prior to receipt from Discloser, in the possession of, or rightfully known by Recipient, without an obligation to maintain its confidentiality; (b) is or becomes generally known to the public without violation of this Agreement or without a violation of an obligation of confidentiality owed

to the Discloser; or (c) is obtained by Recipient in good faith from a third party having the right to disclose it without an obligation of confidentiality.

Subject to the requirements of the Public Records Act, Recipient may provide access to and use of the Discloser's Confidential Information only to those third parties that: (a) provide services to Recipient concerning Recipient's use of the Discloser's Confidential Information; (b) have a need to use and access the Confidential Information (solely for purposes consistent with this Agreement); and (c) have agreed to substantially similar non-disclosure obligations as those contained herein. To the extent Recipient may be required to disclose Confidential Information in a legal proceeding, Recipient may make such disclosure, provided that Recipient notifies Discloser of such requirement prior to disclosure and provided that Recipient makes diligent efforts to avoid and/or limit disclosure.

20.6 No Obligation by County

Notwithstanding any other provision of this Agreement, County shall not be obligated in any way under this Agreement for disclosure of:

- A. any materials which County is required to make under the California Public Records Act or otherwise by law; and
- B. any Contractor's proprietary and/or confidential materials which are not plainly and prominently marked with restrictive legends.

20.7 Survival

The provisions of this Paragraph 20 shall survive the expiration or termination of this Agreement.

21. INTELLECTUAL PROPERTY INDEMNIFICATION

- 21.1 Contractor represents and warrants that, as of the Effective Date, (a) Contractor has the full power and authority to grant the rights granted by this Agreement to County, (b) no consent of any other person or entity is required by Contractor to grant such rights other than consents that have been obtained and are in effect, (c) County is entitled to use the product of the Services provided by Contractor under this Agreement, including any open-source or freeware or any other software provided and utilized by Contractor for provision of such Services (hereinafter "Services Product") without interruption of system use or business operations, subject only to County's obligation to make the required payments under this Agreement, (d) this Agreement and the Services Product are neither subject to any liens, encumbrances, or pledges nor subordinate to any right or claim of any third party, including Contractor's creditors, (e) during the term of this Agreement, Contractor shall not subordinate this Agreement or any of its rights hereunder to any third party without the prior written consent of County, and without providing in such subordination instrument for non-disturbance of County's use of the Services Product (or any part thereof) in accordance with this Agreement, and (f) neither the performance of this Agreement by

Contractor, and use by County and its users of the Services Product in accordance with this Agreement, will in any way violate any non-disclosure agreement, nor constitute any infringement or other violation of any copyright, trade secret, trademark, service mark, patent, invention, proprietary information, or other rights of any third party.

- 21.2 Contractor shall indemnify, hold harmless and defend County from and against any and third party liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys fees, for or by reason of any actual or alleged infringement of any third party's patent or copyright, or any actual or alleged unauthorized trade secret disclosure, arising from or related to the operation and utilization of the Services Product under this Agreement. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 21 shall be conducted by Contractor and performed by counsel selected by Contractor. County shall provide Contractor with information, reasonable assistance, and authority to defend or settle the claim. Notwithstanding the foregoing, County shall have the right to participate in any such defense at its sole cost and expense.
- 21.3 County shall notify Contractor, in writing, as soon as practicable of any claim or action alleging such infringement or unauthorized disclosure. Upon such notice by County, Contractor shall, in its reasonable judgment, and at its sole option and at no cost to County, as remedial measures, either (i) procure the right, by license or otherwise, for County to continue to use the Services Product or any infringing component(s) thereof to the same extent of County's rights under this Agreement, or (ii) to the extent procuring such right to use the Services Product is not commercially practicable, replace or modify the Services Product or any infringing component(s) thereof with another component(s) in such a way that the product and each and every one of its components shall have the quality and level, at a minimum, equivalent to the quality and level of the Services Product and all of the component(s) thereof, until it is determined by County that Services Product with all of its component(s) has become non-infringing, non-misappropriating and non-disclosing.
- 21.4 If, after due diligence, Contractor fails to complete the remedial measures in Paragraph 21.3 above, County shall have the right to take such reasonable remedial measures it deems reasonable to mitigate any impairment of its use of the Services Product or any component(s) thereof or damages or other costs or expenses associated with the infringement claim(s). Contractor shall reimburse County for all amounts paid and all direct costs associated with such remedial measures by County. Failure by Contractor to pay such reasonable amounts and costs within thirty (30) days of invoice by County shall, in addition to, and cumulative to all other remedies, entitle County to immediately withhold payments due to Contractor under this Agreement up to the total of the amounts and costs paid in connection with such remedial measures by County. Contractor shall have no obligation to indemnify or defend County for any liability arising out of or relating to any allegations or claims of infringement, to the extent the alleged infringement is based on: (a) a modification of the Services Product; or (b) use of the Services product in combination with any other materials where, absent such combination, the Services Product would not be infringing.

22. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION

Contractor shall not assign its rights or delegate its duties under this Agreement, or both, either wholly or in part, without the prior written consent of County. Any billings to County by any delegatee or assignee on any claim under this Agreement absent such County consent shall not be paid by County. Any unapproved assignment or delegation shall be null and void. Any payments by County to any approved delegate or assignee on any claim under this Agreement shall be deductible, at County's sole discretion, against the claims, which Contractor would have against County hereunder. Notwithstanding the foregoing, in the event of a merger, consolidation or acquisition of all or substantially all of the assets or capital stock of Contractor, Contractor may assign its rights under this Agreement to the resulting entity upon at least thirty (30) calendar days prior notice to County.

23. SUBCONTRACTING

23.1 No performance of this Agreement, or any portion thereof, shall be subcontracted by Contractor without the prior written approval of County as provided in this Paragraph 23. Any attempt by Contractor to subcontract any performance under this Agreement without the prior written consent of County shall be null and void and shall be deemed a material breach of this Agreement, upon which County may immediately terminate this Agreement.

23.2 If Contractor desires to subcontract any portion of this Agreement, Contractor shall provide to County, in writing, a request for written approval to enter into the particular subcontract, which request shall include:

- (1) The reason(s) for the particular subcontract;
- (2) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected;
- (3) A detailed description of the work to be performed by the proposed subcontractor;
- (4) A draft copy of the proposed subcontract, which shall contain, at a minimum, all standard County required provisions;
- (5) Unless otherwise determined unnecessary by County, copies of Certificates of Insurance and Performance Security from the proposed subcontractor which establish that the subcontractor maintains all the programs of insurance required by Paragraph 17 (Insurance);
- (6) Other pertinent information and/or certifications requested by County.

23.3 County will review Contractor's request to subcontract and determine, in its reasonable discretion, whether or not to consent to such request on a case-by-case basis.

- 23.4 Contractor shall indemnify, defend and hold harmless County, its officers, employees and agents, from and against any and all third party claims, demands, liabilities, damages, costs and expenses, including, but not limited to, defense costs and legal, accounting or other expert consulting or professional fees in any way arising from or related to Contractor's use of any subcontractor, including, without limitation, any officers, employees or agents of any subcontractor, in the same manner as required for Contractor, its officers, employees and agents, under this Agreement.
- 23.5 Notwithstanding County consent to any subcontracting, Contractor shall remain fully responsible for any and all performance required of it under this Agreement, including those which Contractor has determined to subcontract, including, but not limited to, the obligation to properly supervise, coordinate and perform all work required under this Agreement.
- 23.6 County's consent to any subcontracting shall not waive County's right to prior and continuing approval of any and all personnel, including subcontractor employees, providing services under this Agreement. Contractor shall notify its subcontractors of this County right prior to subcontractors commencing performance under this Agreement.
- 23.7 Notwithstanding County's consent to any subcontracting, Contractor shall be solely liable and responsible for any and all payments and other compensation to all subcontractors, and their officers, employees, agents, and successors in interest, for any services performed by subcontractors under this Agreement.
- 23.8 In the event that County consents to any subcontracting, for each subcontract entered into by Contractor, Contractor shall deliver to Chief Information Office, 500 West Temple Street, Room 493, Los Angeles, CA 90012, immediately after the effective date of the subcontract but in no event later than the date any work is performed under the subcontract:
- (1) A fully executed copy of each subcontract entered into by Contractor;
 - (2) An executed Acknowledgment, Confidentiality and Assignment Agreement (Exhibit E) for each subcontractor employee approved to perform work under this Agreement; and
 - (3) Certificates of Insurance, which establish that the subcontractor maintains all the programs of insurance required by County.

24. DISCLOSURE OF INFORMATION

- 24.1 Each party shall not disclose any details in connection with this Agreement, including but not limited to any of its terms or conditions or any circumstances which occur during the performance of this Agreement, to any party except as may be otherwise provided herein or required by law.

24.2 However, in recognizing Contractor's need to identify its services and related clients to sustain itself, County shall not inhibit Contractor from publicizing its role under this Agreement under the following conditions:

- A. Contractor shall develop all publicity material in a professional manner.
- B. During the term of this Agreement, Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of County without the prior written consent of County's Project Manager.
- C. Contractor may, without the prior written consent of County, indicate in its proposals and sales that it has been awarded this Agreement with County, provided that the requirements of this Paragraph 24 shall apply.

25. CONFIDENTIALITY

25.1 Each party shall maintain the confidentiality of all its records, data and information, including, but not limited to, billing and County records, in accordance with all applicable Federal, State and County laws, regulations, ordinances and directives relating to confidentiality for at least five (5) years from the date of disclosure, subject to the Public Records Act. The parties agree, unless required by law, not to make each other's confidential information available in any form to any third party for any purpose other than the implementation of this Agreement.

Nothing shall prevent either party from disclosing the terms or pricing under this Agreement or orders submitted under this Agreement in any legal proceeding arising from or in connection with this Agreement.

A party's confidential information shall not include information that: (i) is or becomes a part of the public domain through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (iv) is independently developed by the other party.

25.2 Contractor shall provide to County an executed Acknowledgment, Confidentiality and Assignment Agreement (Exhibit E) for each of its employees performing work under this Agreement in accordance with Paragraph 33 (Independent Contractor Status) and the Business Associate Agreement (Exhibit G) in accordance with Paragraph 18 (Contractor's Obligations under HIPAA).

With respect to any identifiable information concerning any patient that is obtained by Contractor or any other records and information, Contractor shall: (1) not use any such records or information for any purpose whatsoever other than carrying out the express terms of this Agreement; (2) promptly transmit to County all requests for disclosure of any such records or information; (3) not disclose, except as otherwise specifically permitted by this Agreement, any such records or information to any

person or organization other than County without County's prior written authorization that the records are, or information is, releasable; and (4) at the expiration or termination of this Agreement, return all such records and information to County or maintain such records and information according to the written procedures sent to Contractor by County for this purpose.

- 25.3 Contractor acknowledges that a breach by Contractor of this Paragraph 25 may result in irreparable injury to County that may not be adequately compensated by monetary damages, and that, in addition to County's other rights under this Paragraph 25 and at law and in equity, County shall have the right to injunctive relief to enforce the provisions of this Paragraph 25.

26. TERMINATION FOR DEFAULT

26.1 County Default

Contractor may, by written notice to County, terminate this Agreement if County fails to pay the applicable fee(s) when due in accordance with this Agreement or any applicable Work Order and does not correct such failure within thirty (30) days of receipt of written notice from Contractor, or within any such greater period as mutually agreed to by County and Contractor.

26.2 Contractor Default

- 26.2.1 County may, by written notice to Contractor, terminate the whole or any part of this Agreement, or any Work Order hereunder, if:

- (1) Contractor has failed to comply with the material provisions of this Agreement or has materially breached this Agreement and failed to correct such material breach within thirty (30) days of receipt of written notice from County of such breach; or
- (2) Contractor fails to timely provide the Services required under the applicable Work Order referencing this Agreement at the prices set forth therein or satisfactorily perform the Services in accordance therewith; or
- (3) Contractor fails to demonstrate a high probability of timely fulfillment of the performance requirements under this Agreement, or of any obligations of this Agreement, and in either case, fails to demonstrate convincing progress toward a cure within ten (10) days (or such longer period as County may authorized in writing by County's Project Manager) after receipt of the notice from County.

- 26.2.2 In the event that County terminates this Agreement, or any Work Order hereunder, in whole or in part as provided in this Paragraph 26, then:

- A. Contractor and County shall continue the performance of this Agreement to the extent not terminated under this Paragraph 26; and

B. County shall compensate Contractor for all work performed under this Agreement up to the effective date of termination.

26.2.3 If, after County has given notice of termination under the provisions of this Paragraph 26, it is determined by County that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 27 (Termination for Convenience).

26.2.4 The rights and remedies of County provided in this Paragraph 26 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

27. TERMINATION FOR CONVENIENCE

27.1 This Agreement, or any Work Order hereunder, may be terminated, in whole or in part, permanently or from time to time, when such action is deemed by County to be in its best interest. Termination of work hereunder shall be effected by notice of termination to Contractor specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective, which shall be no less than thirty (30) calendar days after the notice is sent. In the event County has purported to terminate this Agreement for default by notice pursuant to Paragraph 26 (Termination for Default) and it has later been determined that Contractor was not in default, no additional notice shall be required upon such termination.

27.2 After receipt of a notice of termination of this Agreement, or any Work Order hereunder, and except as otherwise directed by County:

27.2.1 Contractor shall:

- (1) Stop work under this Agreement on the date and to the extent specified in such notice;
- (2) Deliver to County all completed work and work in progress;
- (3) Complete performance of such part of the work as shall not have been terminated by such notice; and
- (4) Return to County all fees paid by County and unearned by Contractor according to the terms of this Agreement, including any prepaid fees with respect to any Services.

27.2.2 County shall compensate Contractor for all work performed under this Agreement up to the effective date of termination.

27.3 After receipt of a notice of termination, Contractor shall submit to County, in the form and with any certifications as may be prescribed by County, Contractor's termination

claim and invoice. Such claim and invoice shall be submitted promptly, but no later than ninety (90) days from the effective date of termination.

28. TERMINATION FOR INSOLVENCY

28.1 County may terminate this Agreement immediately at any time upon the occurrence of any of the following:

- A. Insolvency of Contractor. Contractor shall be deemed to be insolvent if it has ceased to pay or has admitted in writing its inability to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the United States Bankruptcy Code and whether or not Contractor is insolvent within the meaning of the United States Bankruptcy Code;
- B. The filing of a voluntary or involuntary petition to have Contractor declared bankrupt;
- C. Appointment of a receiver or trustee for the Contractor; or
- D. Execution by Contractor of an assignment for the benefit of creditors.

Upon termination under this Paragraph 28, County shall have the right to continued use of all Services Products provided or developed by Contractor under this Agreement.

28.2 The rights and remedies of County provided in this Paragraph 28 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

29. TERMINATION FOR IMPROPER CONSIDERATION

29.1 County may, by written notice to Contractor, immediately terminate the right of Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given by Contractor, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing this Agreement or securing favorable treatment with respect to the award, amendment or extension of the Agreement or the making of any determinations with respect to the Contractor's performance pursuant to the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

29.2 Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County's Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.

29.3 Among other items, such improper consideration may take the form of cash,

discounts, services, the provision of travel or entertainment, or tangible gifts.

30. TERMINATION FOR GRATUITIES

County may, by written notice to Contractor, terminate the right of Contractor to proceed under this Agreement upon one (1) calendar day's notice, if it is found that gratuities in the form of entertainment, gifts, or otherwise were offered or given by Contractor, or any agent or representative of Contractor, to any officer, employee, or agent of County with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing, of such contract. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

31. COUNTY'S OBLIGATION FOR FUTURE FISCAL YEARS

County's obligation may be limited if it is payable only and solely from funds appropriated for the purpose of this Agreement. Notwithstanding any other provision of this Agreement, County shall not be obligated for Contractor's performance hereunder or by any provision of this Agreement during any of County's future fiscal years unless and until County's Board of Supervisors appropriates funds for this Agreement in County's budget for each such future fiscal year. In the event that funds are not appropriated for this Agreement, then this Agreement shall terminate as of June 30 of the last fiscal year for which funds were appropriated. County will notify Contractor in writing of any such non-appropriation of funds at the earliest possible date.

32. RECORDS AND AUDITS

32.1 Contractor shall maintain accurate and complete financial records of its activities and operation relating to this Agreement in accordance with generally accepted accounting principles. Contractor agrees that County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or records relating to this Agreement. All such material, including, but not limited to, all financial records, timecards and other employment records, and proprietary data and information, shall be kept and maintained by Contractor and shall be made available to County during the term of this Agreement and for a period of five (5) years thereafter, unless County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at County's option, Contractor shall pay County for travel, per diem, and other costs incurred by County to examine, audit, excerpt, copy or transcribe such material at such other location.

32.2 In the event that an audit is conducted of Contractor specifically regarding this Agreement by any Federal or State auditor, or by any auditor or accountant employed by Contractor or otherwise, then Contractor shall file a copy of such audit report with

County's Auditor-Controller within thirty (30) days of Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Agreement. County shall make a reasonable effort to maintain the confidentiality of such audit report(s).

- 32.3 Failure on the part of Contractor to comply with any of the provisions of this Paragraph 32 shall constitute a breach of this Agreement upon which County may terminate or suspend this Agreement.

33. INDEPENDENT CONTRACTOR STATUS

- 33.1 This Agreement is by and between County and Contractor and is not intended and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association as between County and Contractor. The employees and agents of one party are not and shall not be, or construed to be, the employees or agents of the other party for any purpose whatsoever. Contractor shall function as, and in all respects is, an independent contractor.
- 33.2 Contractor shall be solely liable and responsible for providing all workers' compensation insurance and benefits, liability insurance, employer taxes, compensation, and benefits to, or on behalf of, all persons performing work pursuant to this Agreement. County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, payroll taxes, disability insurance or benefits, or Federal, State or local taxes, or other compensation, benefits or taxes for any personnel provided by or performing work on behalf of Contractor.
- 33.3 The employees and agents of Contractor shall, while on the premises of County, comply with all rules and regulations of the premises, including, but not limited to, security requirements.
- 33.4 Contractor shall provide to County an executed Employee Acknowledgment, Confidentiality and Assignment Agreement (Exhibit E) for each of its employees performing work under this Agreement. Such agreements shall be delivered to County's Project Manager on or immediately after the execution of this Agreement by County and Contractor, but in no event later than the date any such employee first performs work under this Agreement.

34. WARRANTY AGAINST CONTINGENT FEES

- 34.1 Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Contractor for the purpose of securing business.
- 34.2 For breach of this warranty, County shall have the right to terminate this Agreement and, at its sole discretion, deduct from the fees owed, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

35. MOST FAVORED PUBLIC ENTITY

If Contractor's prices decline, or should Contractor, at any time during the term of this Agreement, provide the identical software, software models, components, goods or services under similar quantity and delivery conditions to the State of California or any county, municipality, or district of the State at prices below those set forth in this Agreement, then such lower prices shall be immediately extended to County. County shall have the right, at County's expense, to utilize a County auditor or an independent auditor to verify Contractor's compliance with this Paragraph 35 by review of Contractor's books and records.

36. CONFLICT OF INTEREST

36.1 No County employee whose position with County enables such employee to influence the award of this Agreement or any competing agreements, and no spouse or economic dependent of such employee, shall be employed in any capacity by Contractor or have any other direct or indirect financial interest in this Agreement. No officer or employee of Contractor, who may financially benefit from the performance of work hereunder, shall in any way participate in County's approval or ongoing evaluation of such work, or in any way attempt to unlawfully influence County's approval or ongoing evaluation of such work.

36.2 Contractor shall comply with all conflict of interest laws, ordinances and regulations now in effect or hereafter to be enacted during the term of this Agreement. Contractor warrants that it is not now aware of any facts which do or could create a conflict of interest. If a party hereafter becomes aware of any facts, which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances.

37. COUNTY'S QUALITY ASSURANCE PLAN

County, or its agent, will evaluate Contractor's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with the terms and conditions of this Agreement. Contractor deficiencies, which County determines are severe or continuing and that may place performance of this Agreement in jeopardy, if not corrected, will be reported to the County's Board of Supervisors. The report will include improvements and/or corrective action measures taken by County and Contractor. If improvement does not occur consistent with the corrective action measures, County may, at its sole option, terminate this Agreement, in whole or in part, pursuant to Paragraph 26 (Termination for Default) or Paragraph 27 (Termination for Convenience), or impose other penalties as specified in this Agreement.

39. FORCE MAJEURE

- 39.1 Other than the County's failure to pay any amounts due hereunder, and except with respect to defaults of any subcontractor(s), neither party shall be liable for reasonable delays in the completion of work under this Agreement, if its failure to perform arises out of, and only, fires, floods, epidemics, quarantine restrictions, other natural occurrences, strikes or freight embargoes, but in every such case the failure to perform must be totally beyond the control and without any fault or negligence of the non-performing party.
- 39.2 If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both Contractor and subcontractor, and without any fault or negligence of either of them, Contractor shall not be liable for reasonable delays in the completion of the work, unless the work to be furnished by the subcontractor was obtainable from other sources in sufficient time to permit Contractor to meet the required schedule. Contractor agrees to use all reasonable commercial efforts to obtain such goods or services from other sources. As used in this Paragraph 39, the term "subcontractor(s)" mean subcontractor(s) at any tier.
- 39.3 Notwithstanding anything herein to the contrary, neither party shall be liable for any additional costs incurred by the other party, or any subcontractor of Contractor arising out of or resulting from *force majeure* events.

40. COMPLIANCE WITH APPLICABLE LAWS

- 40.1 Contractor's activities hereunder shall comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, guidelines and directives, which apply to this Agreement and all provisions required thereby to be included in this Agreement are hereby incorporated herein by reference. Contractor shall have up to fifteen (15) days to correct any noncompliance with such rules, regulations, ordinances, guidelines and directives following written notice from County including written copies of such applicable rules, regulations, ordinances, guidelines and/or directives.
- 40.2 Contractor shall indemnify, defend, and hold harmless County, its officers, employees, and agents from and against any and all third party claims, demands, damages, liabilities, losses, costs and expenses, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, arising from or related to any violation on the part of Contractor, its employees, agents or subcontractors of any such laws, rules, regulations, ordinances, guidelines or directives. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 40.2 shall be conducted by Contractor and performed by counsel selected by Contractor. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense.

41. FAIR LABOR STANDARDS

Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act, and shall indemnify, defend, and hold harmless County, its officers, employees and agents from any and all third party liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs and attorneys' fees

arising under, any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by Contractor's employees for which County may be found jointly or solely liable.

42. NONDISCRIMINATION, AFFIRMATIVE ACTION AND COMPLIANCE WITH CIVIL RIGHTS LAWS

- 42.1 Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries and holding companies will be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental handicap, marital status or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.
- 42.2 Contractor shall, pursuant to Los Angeles County Code Section 4.32, certify to and comply with the provisions of the Contractor's EEO Certification (Exhibit F).
- 42.3 Contractor shall ensure that applicants and employees are treated equally during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental handicap, marital status or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 42.4 Contractor certifies and agrees that it will deal with its subcontractors, bidders or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental handicap, marital status or political affiliation, except to the extent necessary to comply with applicable Federal and State anti-discrimination laws and regulations.
- 42.5 Contractor certifies that it, its affiliates, subsidiaries and holding companies are in compliance with all Federal, State, and local laws, including, but not limited to:
 - 1. Title VII, Civil Rights Act of 1964;
 - 2. Section 504, Rehabilitation Act of 1973;
 - 3. Age Discrimination Act of 1975;
 - 4. Title IX, Education Amendments of 1973, as applicable; and
 - 5. Title 43, Part 17, Code of Federal Regulations, Subparts A & B,

and that no person shall, on the grounds of race, creed, color, national origin, political affiliation, marital status, sex, age, or handicap, be subject to discrimination as to any privileges or uses gained under this Agreement or under any project, program or activity supported by this Agreement.

- 42.6 Contractor shall allow County representatives access to Contractor's employment records during regular business hours to verify compliance with the provisions of this Paragraph 42 when so requested by County.

42.7 If County finds that any of the provisions of this Paragraph 42 have been violated, such violation shall, at the election of County, constitute a material breach of this Agreement upon which County may terminate or suspend this Agreement. While County reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that Contractor has violated State or Federal anti-discrimination laws or regulations shall constitute a finding by County that Contractor has violated the anti-discrimination provisions of this Agreement.

42.8 The parties agree that in the event Contractor is found to have violated the anti-discrimination provisions of this Agreement, and that such discrimination was directly associated with the performance of services provided under this Agreement, County may require, pursuant to Los Angeles County Code Section 4.32.010 (E), that Contractor pay the sum of Five hundred Dollars (\$500) for each such violation, in lieu of termination or suspension hereof, as liquidated damages are extremely difficult to ascertain or calculate precisely. In the alternative, County may elect to terminate this Agreement pursuant to Paragraph 26 (Termination for Default).

43. RESTRICTIONS ON LOBBYING

43.1 Federal Funds Projects

If any Federal funds are to be used to pay portion for any of Contractor's work under this Agreement, Contractor shall fully comply with all certification and disclosure requirements prescribed by Section 319 of Public law 101-121 (31 United States Code Section 1352) and any implementing regulations, and shall ensure that each of its subcontractors receiving funds provided under this Agreement also fully complies with all such certification and disclosure requirements.

43.2 County Projects

Contractor, and each County lobbyist or County lobbying firm, as defined in Los Angeles County Code Section 2.160.010, retained by Contractor, shall fully comply with County's Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Contractor or any County lobbyist or County lobbying firm retained by Contractor to fully comply with County Lobbyist Ordinance shall constitute a material breach of this Agreement, upon which County may immediately terminate or suspend this Agreement.

44. EMPLOYMENT ELIGIBILITY VERIFICATION

44.1 Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding employment of aliens and others and that all its employees performing services under this Agreement meet the citizenship or alien status requirements contained in federal and state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986 (P.L. 99-603).

44.2 Contractor shall obtain from all employees performing under this Agreement all verification and other documentation of employment eligibility status required by Federal statutes and regulations as they currently exist and as they may be hereafter amended. Contractor shall retain such documentation for the period prescribed by law.

44.3 Contractor shall indemnify, defend, and hold harmless County, its officers, employees and agents from and against any and all third party claims, demands, damages, liabilities, losses, costs, and expenses, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, arising out of or in connection with any employer sanctions and any other liability which may be assessed against Contractor or County in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Agreement. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 44 shall be conducted by Contractor and performed by counsel selected by Contractor. Notwithstanding the foregoing, County shall have the right to participate in any such defense, at its sole cost and expense.

45. CONTRACT HIRING

45.1 Consideration of Hiring County Employees Targeted for Layoffs

Should Contractor require additional or replacement personnel after the effective date of this Agreement to perform the work set forth herein, Contractor shall give first consideration for such employment openings to permanent County employees who are targeted for layoff or qualified former County employees who are on a re-employment list during the term of this Agreement.

45.2 Consideration of GAIN/GROW Program Participants for Employment

Should Contractor require additional or replacement personnel after the Effective Date, Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services' Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that Contractor will interview qualified candidates. County will refer GAIN participants by job category to Contractor.

In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

45.3 Prohibition against Inducement and Persuasion

Contractor and County agree that, during the term of this Agreement and for a period of one (1) year thereafter, neither party shall in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party. Notwithstanding the foregoing, such prohibition shall not apply to any hiring

action initiated through a public announcement.

46. CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

46.1 Contractor acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through employment or contracts are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

46.2 As required by County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Contractor's duty under this Agreement to comply with all applicable State and Federal provisions of law, Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or County's Child Support Services Department Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5245(b).

47. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

Failure of Contractor to maintain compliance with the requirements set forth in Paragraph 46 (Contractor's Warranty of Adherence to County's Child Support Compliance Program) shall constitute a default by Contractor under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure to cure such default within ninety (90) days of notice by County's Child Support Services Department shall be grounds upon which County's Board of Supervisors may terminate this Agreement pursuant to Paragraph 26 (Termination for Default) and pursue debarment of Contractor pursuant to Paragraph 50 (Contractor Responsibility and Debarment).

48. COMPLIANCE WITH JURY SERVICE PROGRAM

48.1 Jury Service Program

This Agreement is subject to the provisions of County's ordinance entitled Contractor Employee Jury Service Program (hereinafter "Jury Service Program" or "Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code (hereinafter "County Code").

48.2 Written Employee Jury Service Policy

48.2.1 Unless Contractor has demonstrated to the County's satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of

the County Code) or that Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), Contractor shall have and adhere to a written policy that provides that its Employees (as defined in Paragraph 48.2.2 below) shall receive from Contractor, on an annual basis, no less than five (5) days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with Contractor or that Contractor deducts from the Employee's regular pay the fees received for jury service.

48.2.2 For purposes of this Paragraph 48, "Contractor" means a person, partnership, corporation or other entity which has an agreement with County or a subcontract with Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County agreements or subcontracts. "Employee" means any California resident who is a full time employee of Contractor. "Full time" means forty (40) hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of ninety (90) days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any subcontractor to perform services for County under this Agreement, the subcontractor shall also be subject to the provisions of this Paragraph 48. The provisions of this Paragraph 48 shall be inserted into any such subcontract and a copy of the Jury Service Program shall be attached to the agreement.

48.2.3 If Contractor is not required to comply with the Jury Service Program when the Agreement commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify County if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. County may also require, at any time during this Agreement and at its sole discretion, that Contractor demonstrate to County's satisfaction that Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program.

48.3 Contractor's violation of this Paragraph 48 of this Agreement may constitute a material breach of the Agreement. In the event of such material breach, County may, in its sole discretion, terminate this Agreement with Contractor and/or bar Contractor from the award of future County agreements for a period of time consistent with the seriousness of the breach.

49. NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

As required by applicable law, Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service

Notice 1015.

50. CONTRACTOR RESPONSIBILITY AND DEBARMENT

- 50.1 A responsible contractor is a contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is County's policy to conduct business only with responsible contractors.
- 50.2 Contractor is hereby notified that, in accordance with Chapter 2.202 of the Los Angeles Code, if County acquires information concerning the performance of Contractor on this or other contracts which indicates that Contractor is not responsible, County may, in addition to other remedies provided in the contract, debar Contractor from bidding on County contracts for a specified period of time not to exceed three (3) years and terminate any or all existing contracts Contractor may have with County, including this Agreement.
- 50.3 County may debar Contractor if County's Board of Supervisors finds, in its discretion, that Contractor has done any of the following: (1) violated any term of a contract with County, or a nonprofit corporation created by County, (2) committed any act or omission which negatively reflects on Contractor's quality, fitness or capacity to perform a contract with County, any other public entity or a nonprofit corporation created by County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against County or any other public entity.
- 50.4 If there is evidence that Contractor may be subject to debarment, County's Project Director, or his/her designee, will notify Contractor in writing of the evidence which is the basis for the proposed debarment and will advise Contractor of the scheduled date for a debarment hearing before County's Contractor Hearing Board.
- 50.5 The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. Contractor and/or Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board will prepare a proposed decision, which shall contain a recommendation regarding whether Contractor should be debarred, and, if so, the appropriate length of time of the debarment. Contractor, County's Project Director, or his/her designee, and County's Departments shall be provided with an opportunity to object to the tentative proposed decision prior to its presentation to County's Board of Supervisors.
- 50.6 After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision and any other recommendation of the Contractor Hearing Board shall be presented to County's Board of Supervisors. The Board of Supervisors shall have the right to modify, deny or adopt the proposed decision and recommendation of the Contractor Hearing Board.

- 50.7 The terms and procedures of this Paragraph 50 shall also apply to subcontractors, consultants and partners of Contractor performing work under this Agreement.

51. COUNTY AUDIT SETTLEMENTS

If, at any time during or after the term of this Agreement, representatives of County conduct an audit of Contractor regarding the work performed under this Agreement, and if such audit reasonably and accurately finds that County's dollar liability for such work is less than payments made by County to Contractor, then the difference, together with County's reasonable costs of audit, shall be either repaid by Contractor to County by cash payment upon demand or deducted from any amounts due to Contractor from County, as determined by County. If such audit finds that County's dollar liability for such work is more than payments made by County to Contractor, then the difference shall be repaid to Contractor by cash payment.

52. FEDERAL ACCESS TO RECORDS

If, and to the extent that Section 1861(v)(1)(i) of the Social Security Act (42 United States Code Section 1395x(v)(1)(i)) is applicable, Contractor agrees that for a period of five (5) years following the furnishing of Services under this Agreement, Contractor shall maintain and make available, upon written request, to the Secretary of the United States Department of Health and Human Services or the Comptroller General of the United States or to any of their authorized representatives, the contracts, books, documents and records of Contractor which are necessary to verify the nature and extent of the costs of services provided hereunder. Furthermore, if Contractor carries out any of the Services provided hereunder through any subcontract with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve month period with a related organization (as that term is defined under Federal law), Contractor agrees that each such subcontract shall provide for such access to the subcontract, books, documents, and records of the subcontractor.

53. LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS AND CERTIFICATES

Contractor shall obtain and maintain in effect during the term of this Agreement all licenses, permits, registrations, accreditations and certificates required by all Federal, State, and local laws, ordinances, rules, regulations, guidelines and directives, which are applicable to Contractor's services under this Agreement. Contractor shall further ensure that all of its officers, employees, agents and Subcontractors who perform services hereunder, shall obtain and maintain in effect during the term of this Agreement all licenses, permits, registrations, accreditations and certificates which are applicable to their performance hereunder. A copy of each such license, permit, registration, accreditation and certificate required by all applicable Federal, State, and local laws, ordinances, rules, regulations, guidelines and directives shall be provided, in duplicate, to:

*County of Los Angeles
Chief Information Office
Jon W. Fullinwider*

*500 West Temple Street, Room 493
Los Angeles, CA 90012*

54. NO THIRD PARTY BENEFICIARIES

Notwithstanding any other provision of this Agreement, Contractor and County do not in any way intend that any person or entity shall acquire any rights as a third party beneficiary of this Agreement, except that this provision shall not be construed to diminish Contractor's indemnification obligations hereunder.

55. GOVERNING LAW, JURISDICTION AND VENUE

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California applicable to agreements made and to be performed within the State. Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles, California. As with respect to claims that are subject to exclusive Federal subject matter jurisdiction, Contractor agrees and consents to the exclusive jurisdiction of the Federal District Court of the Central District of California.

56. WAIVER

No breach of any provision hereof can be waived unless in writing. No waiver by County of any breach of any provision of this Agreement shall constitute a waiver of any other breach or of such provision. Failure of County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The rights and remedies set forth in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

57. CONTRACTOR PERFORMANCE DURING CIVIL UNREST AND DISASTER

Contractor recognizes that County provides services essential to the residents of the communities it serves, and that these services are of particular importance at the time of a riot, insurrection, civil unrest, natural disaster or similar event. Notwithstanding any other provision of this Agreement, full performance by Contractor during any riot, insurrection, civil unrest, natural disaster or similar event is not excused if such performance remains physically possible without related danger to Contractor's or subcontractors' employees and suppliers. During any such event in which the health or safety of any of Contractor's staff members would be endangered by performing their services on-site, such staff members may perform any or all of their services remotely.

58. DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS

58.1 Contractor shall repair, or cause to be repaired, at its own cost, any and all damage to

County facilities, buildings, or grounds caused by Contractor or employees or agents of Contractor. Such repairs shall be made immediately after Contractor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

- 58.2 If Contractor fails to make timely repairs, County may make any necessary repairs. All costs incurred by County, as determined by County, for such repairs shall be repaid by Contractor by cash payment upon demand or, without limitation of all County's other rights and remedies provided by law or under this Agreement, County may deduct such costs from any amounts due Contractor from County under this Agreement.

59. AUTHORIZATION WARRANTY

Contractor represents and warrants that the person executing this Agreement or any Amendment thereto pursuant to Paragraph 10 (Change Notices and Amendments) for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition and obligation of this Agreement, and that all requirements of Contractor have been fulfilled to provide such actual authority.

60. FORMS AND PROCEDURES

All forms and procedures used by Contractor in implementation of the provisions of this Agreement shall be subject to review and approval by County prior to use by Contractor. Such forms and procedures shall not conflict in any way with this Agreement and shall incorporate the terms and conditions of this Agreement. In the event of any conflict between such forms and procedures and this Agreement, the provisions of this Agreement shall prevail.

61. MINIMUM AGE, LANGUAGE SKILLS AND LEGAL STATUS OF CONTRACTOR PERSONNEL AT FACILITY

Contractor cannot assign employees under the age of eighteen (18) to perform work under this Agreement. All of Contractor's employees working at County facilities must be able to communicate in English. Contractor's employees must be United State citizens or legally present and permitted to work in the United States.

62. VALIDITY AND SEVERABILITY

62.1 Validity

The invalidity, unenforceability or illegality of any provision of this Agreement shall not render the other provisions hereof invalid, unenforceable or illegal, unless the essential purposes of this Agreement shall be materially impaired thereby.

62.2 Severability

In the event that any provision herein contained is held to be invalid, void or illegal by any court of competent jurisdiction, the same shall be deemed severable from the

remainder of this Agreement, if practicable, and shall in no way affect, impair or invalidate any other provision contained herein. If any such provision shall be deemed invalid to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

63. NOTICES

All notices or demands required or permitted to be given or made under this Agreement shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties at the following addresses. Notices shall be deemed given (i) at the time of signed receipt or refusal of receipt, in the case of hand delivery; and (ii) three (3) days after deposit in the United States mail, in the case of mail. Addresses may be changed by either party giving ten (10) days prior written notice thereof to the other party.

If to County:

*County of Los Angeles
Chief Information Office
Jon W. Fullinwider
500 West Temple Street, Room 493
Los Angeles, CA 90012*

If to Contractor:

*Cognos Corporation
15 Wayside Road
Burlington, MA 01803
Attn: Corporate Counsel*

64. ARM'S LENGTH NEGOTIATIONS

This Agreement is the product of arm's length negotiations between Contractor and County. Consequently, each party has had the opportunity to receive advice from independent counsel of its own choosing. This Agreement is to be interpreted fairly as between the parties and not strictly construed as against either party.

65. NONEXCLUSIVITY

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Contractor. This Agreement shall not restrict County from acquiring similar, equal or like goods and/or services from other entities or sources.

66. ACCESS TO COUNTY FACILITIES

Contractor, its employees and agents, will be granted access to County facilities, subject to Contractor's prior notification to County's Project Manager or the Department Project Manager, for the purpose of executing Contractor's obligations

hereunder. Access to County facilities shall be restricted to normal business hours, 8:00 a.m. until 5:00 p.m., Pacific Time, Monday through Friday, County observed holidays excepted. Access to County facilities outside of normal business hours must be approved in writing in advance by County's Project Manager or the Department Project Manager, which approval will not be unreasonably withheld. Contractor shall have no tenancy, or any other property or other rights, in County facilities. While present at County facilities, Contractor's personnel shall be accompanied by County personnel at all times, unless this requirement is waived in writing prior to such event by County's Project Manager or the Department Project Manager.

67. COUNTY FACILITY OFFICE SPACE

In order for Contractor to perform Services hereunder and only for the performance of such services, County may elect, subject to County's standard administrative and security requirements, to provide Contractor with office space and equipment, as determined at the discretion of the County's Project Manager or the Department Project Manager at County facilities, on a non-exclusive use basis. County shall also provide Contractor with reasonable telephone service in such office space for use only for purposes of this Agreement. County disclaims any and all responsibility for the loss, theft or damage of any property or material left at such County office space by Contractor.

68. PHYSICAL ALTERATIONS

Contractor shall not in any way physically alter or improve any County facility without the prior written approval of the County's Project Manager or the Department Project Manager, and County's Director of Internal Services Department, in their discretion.

69. CONTRACTOR'S OFFICES

Contractor's business offices are located at 15 Wayside Road, Burlington, Massachusetts 01803. Contractor shall notify County of any change in its business address at least ten (10) Calendar days prior to the effective date thereof.

70. DISPUTE RESOLUTION PROCEDURE

70.1 Contractor and County agree to act immediately to mutually resolve any disputes which may arise with respect to this Agreement. All such disputes shall be subject to the provisions of this Paragraph 70 (hereinafter "Dispute Resolution Procedure"). Time is of the essence in the resolution of disputes.

70.2 Contractor and County agree that, the existence and details of a dispute notwithstanding, both parties shall continue without delay their performance hereunder, except for any performance which County, in its reasonable discretion, determines should be delayed as a result of such dispute.

If Contractor fails to continue without delay its performance hereunder which County,

in its reasonable discretion, determines should not be delayed as a result of such dispute, then any additional costs which may be incurred by Contractor or County as a result of Contractor's failure to continue to so perform shall be borne by Contractor, and Contractor shall make no claim whatsoever against County for such costs. Contractor shall promptly reimburse County for such County costs, as agreed upon by County and Contractor, or County may deduct all such additional costs from any amounts due to Contractor from County.

If County fails to continue without delay to perform its responsibilities under this Agreement which Contractor, in its reasonable discretion, determines should not be delayed as a result of such dispute, then any additional costs incurred by Contractor or County as a result of County's failure to continue to so perform shall be borne by County, and County shall make no claim whatsoever against Contractor for such costs. County shall promptly reimburse Contractor for all such additional Contractor costs, as agreed upon by County and Contractor.

- 70.3 In the event of any dispute between the parties with respect to this Agreement, Contractor and County shall submit the matter to their respective Project Managers for the purpose of endeavoring to resolve such dispute.
- 70.4 In the event that the Project Managers are unable to resolve the dispute within a reasonable time not to exceed ten (10) days from the date of submission of the dispute, then the matter shall be immediately submitted to the parties' respective Project Directors for further consideration and discussion to attempt to resolve the dispute.
- 70.5 In the event that at these levels, there is not a resolution of the dispute acceptable to both parties, then each party may assert its other rights and remedies provided under this Agreement and/or its rights and remedies as provided by law.
- 70.6 In the event a Dispute Resolution Procedure under this Paragraph 70 is invoked due to either party's failure to perform or fulfill its obligations under a Work Order hereunder (hereinafter in this Paragraph 70 "Work Order Non-Performance"), and a party continues without delay its performance under such Work Order in accordance with Paragraph 70.2 above, then, should the Dispute Resolution be resolved in favor of such party, County and Contractor shall agree upon the cost of the party's such continued performance resulting from the Work Order Non-Performance. If it is found that the party did suffer cost for continuing to perform that resulted from the Work Order Non-Performance, then the parties will execute a Change Order in accordance with Paragraph 7.2 (Change Order Process) for adjusting the Work Order amount by the agreed upon cost to such party.
- 70.7 All disputes utilizing this Dispute Resolution Procedure shall be documented in writing by each party and shall state the specifics of each alleged dispute and all actions taken. The parties shall act in good faith to resolve all disputes. At all three (3) levels described in this Paragraph 70, the efforts to resolve a dispute shall be undertaken by conference between the parties' respective representatives, either orally, by face-to-face meeting or by telephone, or in writing by exchange of

correspondence.

- 70.8 Notwithstanding any other provision of this Agreement, a party's right, as applicable, to terminate this Agreement pursuant to Paragraph 28 (Termination for Insolvency), Paragraph 26 (Termination for Default), Paragraph 29 (Termination for Improper Consideration), Paragraph 27 (Termination for Convenience), or any other termination provision hereunder, and a party's right to seek injunctive relief to enforce the provisions of Paragraphs 20 (Proprietary Considerations) and 25 (Confidentiality), shall not be subject to this Dispute Resolution Procedure.

71. STAFF PERFORMANCE WHILE UNDER THE INFLUENCE

Contractor shall use reasonable efforts to ensure that no employee of Contractor shall perform services hereunder while under the influence of any alcoholic beverage, medication, narcotic or other substance which might impair his physical or mental performance.

72. CAPTIONS AND PARAGRAPH HEADINGS

Captions and paragraph headings used in this Agreement are for convenience only and are not a part of this Agreement and shall not be used in construing this Agreement.

73. SURVIVAL

Unless otherwise specified herein, the provisions in the following Paragraphs shall survive the expiration or termination of this Agreement for any reason:

- 9. Warranty
- 16. Indemnification and Limitation of Liability
- 17. Insurance
- 20. Proprietary Considerations
- 21. Intellectual Property Indemnification
- 24. Disclosure of Information
- 25. Confidentiality
- 32. Records and Audits
- 40. Compliance with Applicable Laws
- 41. Fair Labor Standards
- 42. Nondiscrimination, Affirmative Action and Compliance with Civil Rights Laws
- 44. Employment Eligibility Verification
- 51. County Audit Settlements
- 52. Federal Access to Records
- 54. No Third Party Beneficiaries
- 55. Governing Law, Jurisdiction and Venue
- 62. Validity and Severability

74. NOTICE OF DELAYS

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, within five (5) business days, give notice thereof, including all relevant information with respect thereto, to the other party.

75. RECYCLED PAPER

Consistent with the County's Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, Contractor agrees to use recycled-content paper to the maximum extent possible in this Project.

76. SAFELY SURRENDERED BABY LAW

76.1 As required by applicable law, Contractor shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrender Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is available on the Internet at <http://www.babysafela.org> for printing purposes.

76.2 Contractor acknowledges that County places a high priority on the implementation of the Safely Surrendered Baby Law. Contractor understands that it is County's policy to encourage all County contractors to voluntarily post County's "Safely Surrendered Baby Law" poster in a prominent position at Contractor's place of business. Contractor will also encourage its subcontractors, if any, to post this poster in a prominent position in the subcontractor's place of business. County's Department of Children and Family Services will supply Contractor with the poster to be used.

77. NO PAYMENT FOR SERVICES PROVIDED FOLLOWING EXPIRATION / TERMINATION OF AGREEMENT

Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any Service provided by Contractor after the expiration or other termination of this Agreement. Should Contractor receive any such payment, it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for Services rendered after expiration / termination of this Agreement shall not constitute a waiver of County's right to recover such payment from Contractor. This provision shall survive the expiration or other termination of this Agreement.

**AGREEMENT
BETWEEN COUNTY OF LOS ANGELES
AND
COGNOS CORPORATION**

IN WITNESS WHEREOF, the Los Angeles County Board of Supervisors has caused this Agreement to be subscribed by its Chairperson and the seal of such Board to be hereto affixed and attested by the Executive Officer thereof, and Contractor has caused this Agreement to be subscribed in its behalf by its authorized officer, effective as of the date approved by such Board.

COUNTY OF LOS ANGELES

By _____
DON KNABE
Chair, Board of Supervisors

ATTEST:
VIOLET VARONA-LUKENS
Executive Officer
Los Angeles County
Board of Supervisors

By _____
Deputy

COGNOS CORPORATION
Contractor

Signed: Jeffrey J. Ott
Printed: Jeffrey J. Ott
Title: Director

APPROVED AS TO FORM:
RAYMOND G. FORTNER, Jr.
County Counsel

By 
VICTORIA MANSOURIAN
Senior Associate County Counsel

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Software License Agreement (SLA) for Business Intelligence Software between the County of Los Angeles and Cognos Corporation, dated May 27, 2004 (Incorporated by Reference)

EXHIBIT A

DESCRIPTION OF SERVICES

Cognos shall provide the following types of Business Intelligence Services under this Agreement:

1. Installation Services: Installation Services as described in Attachment 1 (Installation Services) to this Exhibit A.
2. Training Services: Training Services as described in Attachment 2 (Training Services) to this Exhibit A.
3. Business Intelligence (BI) QuickStart Services: Business Intelligence (BI) QuickStart Services as described in Attachment 3 (Business Intelligence (BI) QuickStart Services) to this Exhibit A.
4. Professional Services: Professional Services as described in Attachment 4 (Professional Services) to this Exhibit A.
5. Consulting Services: Consulting Services as described in Attachment 5 (Consulting Services) to this Exhibit A.
6. BI Service Packages: Services under any BI Service Package in accordance with Contractor's standard terms for such BI Service Package.

Each of the above type of Services shall utilize the Work Order and Change Order processes described in Exhibits B (Work Order Process) and D (Change Order Process) respectively, including all Attachments thereto.

Note: Cognos Maintenance and Support Services for Cognos Software are provided by the Software License Agreement (SLA) between County and Cognos dated May 27, 2004, as such services are defined in the SLA.

EXHIBIT A
ATTACHMENT 1

INSTALLATION SERVICES

Upon execution of a Work Order for Installation Services and in accordance with the terms and conditions set forth therein, Contractor shall provide to County Installation Services for implementation of the Software, licensed under the SLA, pursuant to Contractor's standard installation procedures. Installation Services shall be provided in accordance with the executed Work Order for such Services, including all Attachments thereto, on-site and/or remotely as specified in the applicable Work Order SOS. The Installed Software shall meet the Software Specifications identified in the SLA.

EXHIBIT A
ATTACHMENT 2

TRAINING SERVICES

Upon execution of a Work Order for Training Services and in accordance with the terms and conditions set forth therein, Contractor shall provide to County application, technical, administrative and/or business Training Services pursuant to Contractor's then current published North American Training Catalog and/or other standard training materials for the Software licensed under the SLA. Training Services shall be provided in accordance with the executed Work Order for such Services, including all Attachments thereto, on-site or at Cognos Public Educational Centers, as specified in the applicable Work Order SOS. The Training Services shall meet the requirements identified in Contractor's then current published North American Training Catalog and/or other standard training materials for training of the Software licensed under the SLA.

The on-site instructor-led Cognos Training shall be provided for up to a total of 12 students per course. All training shall be selected from courses identified in Contractor's then current published North American Training Catalog and/or other standard training materials for training of the Software licensed under the SLA.

EXHIBIT A
ATTACHMENT 3

BUSINESS INTELLIGENCE (BI) QUICKSTART SERVICES

Upon execution of a Work Order for BI QuickStart Services and in accordance with the terms and conditions set forth therein, Contractor shall provide to County BI QuickStart Services in accordance with the executed Work Order for such Services, including all Attachments thereto. BI QuickStart Services are based on Contractor's BI Initiate Service package and composed of three (3) key components:

- Rapid deployment service with 30 days on-site consulting services;
- Future project planning services;
- Quality assurance checkup services.

Rapid Deployment Service: A Cognos consultant shall provide assistance to gather requirements, design BI reports and models, provide solutions, promote self sufficiency, outline tasks for the pilot solution, and construct the BI objects. Expected outcomes include, but are not limited to:

- Dedicated Cognos consulting team;
- Pre-engagement templates;
- Production-ready BI application to initial implementation area.

Future Project Planning Service: Cognos and County shall co-author an enterprise BI future project roadmap. This plan defines a six (6) to twelve (12) month roadmap for upcoming projects within the organization, based on the BI QuickStart project, the known environment, application information and the Department's enterprise vision. Expected outcomes include, but are not limited to:

- Future project planning sessions with Cognos consultant team;
- Going Forward Planning document.

Quality Assurance Checkup: Once the initial BI QuickStart project deployment is complete, a Cognos consultant will be scheduled for quality assurance checkups to ensure the continued success of the BI QuickStart project and to answer architecture and integration questions. Expected outcomes include, but are not limited to:

- Quality assurance checkups by Cognos consultant team;
- Assessment based on checkup issues.

EXHIBIT A
ATTACHMENT 4

PROFESSIONAL SERVICES

Upon execution of a Work Order for Professional Services and in accordance with the terms and conditions set forth therein, Contractor shall provide to County Professional Services related to the Software, licensed to County under the SLA, in accordance with the executed Work Order for such Services, including all Attachments thereto.

Professional Services shall be time and materials based. Examples of these Services include, but are not limited to: (i) advice on a particular area of Business Intelligence, where Contractor is not responsible for any deliverables, and (ii) transfer of knowledge.

EXHIBIT A
ATTACHMENT 5

CONSULTING SERVICES

Upon execution of a Work Order for Consulting Services and in accordance with the terms and conditions set forth therein, Contractor shall provide to County Consulting Services related to the Software, licensed to County under the SLA, in accordance with the executed Work Order for such Services, including all Attachments thereto.

Consulting Services shall be based on fixed price deliverables without consideration for the time spent by Contractor on the particular Work Order SOS, where Contractor shall be responsible for all deliverables specified in such SOS. In the event of ambiguity, the Services for defining and accepting deliverables under this Agreement related to the Software licensed under the SLA shall be interpreted as fixed price Services.

EXHIBIT B

PRICING SCHEDULE

I. DEFINITIONS

1. Service Units:

The Services under this Agreement shall be provided in multiples of units of Services (hereinafter "Service Unit(s)" or "SU(s)") and shall be priced at a blended rate (hereinafter "Blended Rate"). Service Units shall neither increase nor expire during the Initial Term of this Agreement.

2. Blended Rate:

The Blended Rate during the Initial Term of this Agreement shall be \$158. Blended Rate shall apply to Senior Consulting, Standard Consulting, BI Account Management Consulting, BI Advisor Consulting and e-Application Consulting Services and shall be used for the following categories of Services provided by Contractor under this Agreement: (i) Installation Services, (ii) Training Services, (iii) BI QuickStart Services, (iv) Professional Services and (v) BI Services Packages, if applicable. The Blended Rate during the Extended Term(s) of this Agreement shall be agreed upon by County and Contractor and shall be subject to County's Cost Of Living Adjustment (COLA) in effect at the time the option for the applicable Extended Term is executed.

3. Business Day:

For the purpose of Services being provided by Contractor in terms of Services Units, a Business Day shall have the meaning set above in the Agreement, unless specified otherwise in the executed Work Order for the particular Services. The application of SUs for each type of Services is defined below.

II. SERVICES

1. Installation Services:

Installation Services described in Attachment 1 (Installation Services) to Exhibit A (Description of Services) shall be priced at the number of SUs described in the particular Work Order for such Installation Services and shall be performed on a time and materials basis as specified in the applicable Work Order, including the Payment Schedule.

2. Training Services:

Training Services described in Attachment 2 (Training Services) to Exhibit A (Description of Services) shall be priced differently for on-site and for Public Education provided at Cognos Public Educational Centers and shall be performed on a time and materials basis as specified in the applicable Work Order, including the Payment Schedule.

a. On Site Education:

On site education for twelve (12) students, including materials, regardless of course level shall be priced at 16 SUs per day.

b. Public Education:

Public education provided at the Cognos Irvine Educational Center shall be priced at the following rates:

- 2 SUs for one student day of standard public education in North America
- 3 SUs for one student day of advanced public education in North America

- 1 SUs for one student day of virtual public education in North America
3. Business Intelligence (BI) QuickStart Services: BI QuickStart Services described in Attachment 3 (Business Intelligence (BI) QuickStart Services) to Exhibit A (Description of Services) shall be priced at 30 days of consulting at 8 SUs per day or 240 SUs and shall be performed on a time and materials and/or fixed price basis as specified in the applicable Work Order, including the Payment Schedule.
 4. Professional Services: Professional Services described in Attachment 4 (Professional Services) to Exhibit A (Description of Services) shall be priced at the number of SUs described in the particular Work Order for such Professional Services and shall be performed on a time and materials basis as specified in the applicable Work Order, including the Payment Schedule.
 5. Consulting Services: Consulting Services described in Attachment 5 (Consulting Services) to Exhibit A (Description of Services) shall be priced at the number of SUs described in the particular Work Order for such Consulting Services and shall be performed on a fixed price basis as specified in the applicable Work Order, including the Payment Schedule.
 6. BI Service Packages: BI Service Packages shall be priced on a time and materials and/or fixed price basis as specified in the applicable Work Order, including the Payment Schedule.

III. EXPENSES

Travel and living expenses of Cognos consultants/instructors for Services provided under this Agreement shall be deemed Out-of-Pocket Expenses and shall be billed separately. The invoices for such expenses shall be paid in accordance with the provisions relating to County's obligations for payment of Contractor's invoices under the Agreement.

EXHIBIT C

WORK ORDER PROCESS

The following represents the work flow process for defining and executing Work Orders under this Agreement:

1. Work Order Initiation:

- a. A County Department issues a request for Work Order to Contractor.
- b. Contractor schedules a meeting with the Department to initiate the Statement of Services process.
- c. Contractor is provided with an overview of the Department's current application and the business process it supports.
- d. Department and Contractor discuss and agree on the most appropriate Services to satisfy the Department's Statement of Services.
- e. Department and Contractor schedule and participate in a Joint Application Design (JAD) session to determine the Statement of Services tasks, subtasks, milestones and deliverables, where applicable.

2. Work Order Statement Of Services (SOS):

The executed Work Order SOS shall at a minimum include the following sections, as applicable:

- a. Application system design documentation.
- b. Detailed description of tasks, subtasks, milestones and deliverables.
- c. Detailed project plan.
- d. Identification of all required County and Contractor resources and staff.
- e. Detailed cost documentation including cost calculation worksheet.
- f. Work Order technical development process.
- g. Acceptance Criteria (if applicable).
- h. Refresh Data Period and Data Refresh Event (if applicable).
- i. Applicable Warranties.

3. Work Order Submission:

- a. Contractor and Department fill out and execute the Work Order Submission Form (Attachment 1) along with the following documents attached:
 - i. Work Order Statement of Services (Attachment 2)
 - ii. Work Order Payment Schedule (Attachment 3)
 - iii. Work Order Project Schedule (Attachment 4).
- b. Contractor and Department submit Work Order Submission Form, with all Attachments thereto, to County's Project Manager for approval.

4. Work Order Development and Approval:

- a. Work Orders for Installation Services:
 - i. Contractor delivers Installation Services as scheduled.
 - ii. Department tests the Software according to agreed upon tests.
 - iii. When the invoice for Installation Services is available:
 - (1) Department Project Manager signs-off, if required by County.
 - (2) County's Project Manager signs-off.

- b. Work Orders for Training Services:
 - i. Contractor delivers Training Services as scheduled.
 - ii. When the invoice for Training Services is available:
 - (1) Department Project Manager signs-off, if required by County.
 - (2) County's Project Manager signs-off.
- c. Work Orders for BI QuickStart Services:
 - i. Contractor delivers BI QuickStart Services as scheduled.
 - ii. When the invoice for BI QuickStart Services is available:
 - (1) Department Project Manager signs-off, if required by County.
 - (2) County's Project Manager signs-off.
- d. Work Orders for Professional Services:
 - i. Contractor delivers Professional Services as scheduled.
 - ii. When the invoice for Professional Services is available:
 - (1) Department Project Manager signs-off, if required by County.
 - (2) County's Project Manager signs-off.
- e. Work Order for Consulting Services:
 - i. Contractor delivers each deliverable for review and sign-off.
 - ii. County tests each deliverable using Acceptance Criteria prior to deliverable sign-off.
 - iii. County tests, as the final deliverable, the Work Order project as an integrated system prior to final deliverable sign-off.
 - iv. When invoice for each deliverable is available:
 - (1) Department Project Manager signs-off, if required by County.
 - (2) County's Project Manager signs-off.
- f. Work Orders for BI Service Packages:
 - i. Contractor delivers BI Service Packages as scheduled.
 - ii. When the invoice for BI Service Package is available:
 - (1) Department Project Manager signs-off, if required by County.
 - (2) County's Project Manager signs-off.

5. Work Order Acceptance Criteria:

- a. Acceptance Criteria for Installation Services shall be as set forth in the applicable Work Order, including the SOS, and shall include, at a minimum:
 - i. Designed and built set of reports and databases that can be used in the Acceptance Tests for the Installation Services.
 - ii. These reports will be used to test all new installations and to test all upgrades to existing installations.
- b. Acceptance Criteria for Training Services shall be as set forth in the applicable Work Order, including the SOS, and shall include, at a minimum:
 - i. Successful completion of the Training course(s) pursuant to Contractor's then current published North American Training Catalog and/or other standard training materials as specified in the Work Order Statement of Services.

- c. Acceptance Criteria for BI QuickStart Services as developed by mutual agreement of the Department and Contractor shall be as set forth in the applicable Work Order, including the SOS, and shall include, at a minimum:
 - i. Acceptance Test for each deliverable under the BI QuickStart bundle of Services.
 - ii. Acceptance Tests for the BI QuickStart Bundle of Services as a whole.
- d. Acceptance Criteria for Professional Services shall be as set forth in the applicable Work Order, including the SOS, and shall include, at a minimum:
 - i. Successful completion of the requested Professional Services.
- e. Acceptance Criteria for Consulting Services as developed by mutual agreement of the Department and Contractor shall be as set forth in the applicable Work Order, including the SOS, and shall include, at a minimum:
 - i. Acceptance Test for each deliverable defined in the Work Order.
 - ii. Acceptance Tests for the Work Order project as a whole.
- f. Acceptance Criteria for BI Service Packages as developed by mutual agreement of the Department and Contractor shall be as set forth in the applicable Work Order, including the SOS, and shall include, at a minimum:
 - i. Acceptance Test for each deliverable under the BI Service Package.
 - ii. Acceptance Tests for the BI Service Package as a whole.

6. Work Order Initial Acceptance:

Work Order project shall achieve "Initial Acceptance" following successful completion, delivery and Acceptance of all Services under such Work Order in accordance with Section 4 (Work Order Development and Approval) above on or before the date set forth in the Project Schedule, when it meets the applicable Acceptance Criteria for such Services as specified in Section 5 (Work Order Acceptance Criteria) and the applicable Work Order Statement of Services. Consulting Services Work Order project shall achieve Initial Acceptance when the Work Order project is complete and ready for Production Use.

7. Work Order Production Use

Work Order Production Use shall apply only to Consulting Services and shall signify the beginning of the inspection of the Work Order project. The length of the inspection period is specified in the Work Order Statement of Services documentation as the Data Refresh Period. For the purposes of this Agreement, the Work Order project shall be ready for "Production Use" upon successful execution by Contractor of all applicable test cases described in the Work Order Statement of Services confirming the correctness and completeness of the application system design and verifying all features and functionality of the implemented solution and operational procedures, as also specified in Section 4 (Work Order Development and Approval) above.

8. Work Order Final Acceptance:

Work Order project shall achieve Final Acceptance on or before the date set forth in the Project Schedule, if applicable, as described below.

- a. Non-Consulting Services:
For Non-Consulting Services, Work Order project shall achieve "Final Acceptance" upon County's Acceptance of such Services in accordance with the Acceptance Criteria set forth in the Work Order SOS and Section 5 (Work Order Acceptance Criteria) above.
- b. For Consulting Services, Work Order project shall achieve "Final Acceptance" at the end of the process outlined below.
 - i. Department and Contractor review the Acceptance Criteria.
 - ii. Cognos shall verify all features and functionality of the implemented solution and operational procedures.
 - iii. Department puts the Work Order project into Production Use for the length of the Data Refresh Period.
 - iv. Department utilizes the Work Order project in Production Use through one (1) Data Refresh Period without Deficiencies according to the Acceptance Criteria defined in the Acceptance Criteria section of the Work Order Statement of Services.
 - v. If during the Data Refresh Event, Deficiencies appear, Contractor will correct such Deficiencies and re-submit the Work Order project for re-testing during one (1) more Data Refresh Period with a new Data Refresh Event.
 - vi. Upon Production Use of Work Order project with no Deficiencies up to the Data Refresh Event, the Work Order is ready for Final Acceptance.
 - vii. If the Work Order project is Deficient for a second time, the Deficiencies shall be resolved in accordance with the Dispute Resolution Procedure.

Contractor's successful satisfaction of the Acceptance Test procedures in accordance with Acceptance Criteria for Final Acceptance and County's Acceptance of the Work Order Services shall constitute Final Acceptance. County's Project Director will approve the Work Order in writing by issuing a fully executed Acceptance Certificate (attached as Attachment 5 (Work Order Acceptance Form) to this Exhibit C) for such Work Order (the date of issuing of such Acceptance Certificate shall be referred to as the "Acceptance Date"). Warranty Period shall commence.

9. Warranty Period:

For the purposes of this Agreement and Paragraph 9 (Warranty) of the body of this Agreement, the "Warranty Period" shall be defined as follows:

- a. Installation Services: 30 day period following Final Acceptance of such Services by County, unless specified otherwise in the Work Order SOS.
- b. Training Services: None, unless specified otherwise in the Work Order SOS.
- c. BI QuickStart Services: 30 day period following Final Acceptance of such Services by County, unless specified otherwise in the Work Order SOS.
- d. Professional Services: None, unless specified otherwise in the Work Order SOS.
- e. Consulting Services: the Data Refresh Period (as described in the Work Order SOS) starting from Final Acceptance plus 15 days, as specified in the Work Order SOS.
- f. BI Service Packages: 30 day period following Final Acceptance of such Services by County, unless specified otherwise in the Work Order SOS.

EXHIBIT C
ATTACHMENT 1

WORK ORDER SUBMISSION FORM

Department _____
Department Project Manager _____
Date _____

- ☐ Installation Services ☐ Training Services ☐ BI QuickStart Services
☐ Professional Services ☐ Consulting Services ☐ BI Service Package

WORK ORDER MANAGEMENT SUMMARY AND BUSINESS OBJECTIVE

WORK ORDER PROJECT DEFINITION

WORK ORDER STATEMENT OF SERVICES

WORK ORDER PAYMENT SCHEDULE

WORK ORDER ACCEPTANCE DEFINITION

WORK ORDER DATA REFRESH PERIOD AND WARRANTY PERIOD DEFINITION

Work Order Approval

Signature

Date

Work Order Number Assigned

County's Project Manager

Department Project Manager

Contractor's Project Manager

ATTACHMENTS: Statement of Services
 Payment Schedule
 Project Schedule
 Acceptance Form

EXHIBIT C
ATTACHMENT 2

WORK ORDER STATEMENT OF SERVICES (SOS)

The Work Order Statement of Services (SOS) shall be prepared in accordance with Exhibit C (Work Order Process) and shall include and specify the following information for each of the Service types if and as applicable:

1. Application systems design documentation:
Department will provide Contractor with all applicable documentation for the Business Intelligence project. Department and Contractor shall meet and develop and agree upon a high level systems design that will meet the objectives of the project.
2. Detailed description of tasks subtasks, milestones and deliverables:
Department and Contractor shall meet and define, develop and agree upon the tasks, subtasks, milestones and deliverable descriptions for the project.
3. Identification of all required County and Contractor resources and staff:
Department and Contractor shall meet and identify and agree upon County employees and Cognos consultants responsible for the successful completion of each task, subtask, milestone and deliverable.
4. Detailed project plan:
Department and Contractor shall meet and develop and agree upon a detailed project plan to accomplish the project's tasks, subtasks, milestones and deliverables and persons assigned to these tasks, subtasks, milestones and deliverables as defined above.
5. Detailed cost documentation including cost calculation worksheet:
Department and Contractor shall meet and develop and agree upon the hours to accomplish the tasks, subtasks, milestones and deliverables as identified in the detailed project plan.
6. Work Order technical development process:
Department and Contractor shall meet and develop and employ Cognos Business Intelligence tools to construct the project deliverables.
7. Acceptance Criteria:
Department and Contractor shall agree upon the Acceptance Criteria for testing, the Data Refresh Period for a Data Refresh Event and the Warranty Period with respect to any deliverables to be delivered in the course of performing the Services.
8. Initial Acceptance:
Initial Acceptance shall be achieved upon successful completion, delivery and Acceptance of Services under the Work Order in accordance with the applicable Acceptance Criteria, when Contractor submits the project to the Department as ready for Production Use, if applicable.

9. Data Refresh Period (Consulting Services):
For Consulting Services, Department determines the reporting period (Data Refresh Period) during which the data has been refreshed (Data Refresh Event) and the Department requires a new report. The project must work as defined before and after that defined period. The Department and Contractor shall agree upon the Data Refresh Period, the Data Refresh Event and the Acceptance Criteria by which the project shall be judged to work and document these in the Work Order.
10. Final Acceptance:
Final Acceptance shall be achieved upon Acceptance of all Services under the Work Order in accordance with the applicable Acceptance Criteria, immediately after successful completion of the Data Refresh Period and Data Refresh Event, if applicable.
11. Work Order Warranties:
Department and Contractor shall agree upon the applicable warranties for the project as described in the body of the Agreement and Exhibit C (Work Order Process).

EXHIBIT C
ATTACHMENT 3

WORK ORDER PAYMENT SCHEDULE

The Payment Schedule, labeled as Attachment 3, shall be prepared in accordance with Exhibit C (Work Order Process) and shall be submitted along with the Work Order Submission Form (Attachment 1) as part of each Work Order. Services provided by Contractor under this Agreement shall be paid as described below:

1. Payment for Work Orders for Installation Services shall be due and payable following Final Acceptance for such Services.
2. Payment for Work Orders for Training Services shall be due and payable following Final Acceptance for such Services.
3. Payment for Work Orders for BI QuickStart Services shall be due and payable following Final Acceptance for such Services.
4. Payment for Work Orders for Professional Services shall be due and payable following Final Acceptance for such Services.
5. Payment for Work Orders for Consulting Services deliverables Accepted by County during the Warranty Period shall be due and payable within 15 days following the end of the Warranty Period for such Services and shall be scheduled as follows:
 - i. Seventy percent (70%) of the total Work Order amount shall be divided among the Consulting Services project deliverables as agreed upon by the Department and Cognos and may be scheduled for payment upon successful completion by Contractor and Acceptance by County of the following milestones:
 - Work Order Development Process.
 - Work Order Initial Acceptance.
 - ii. The remaining thirty percent (30%) of the Work Order amount shall be scheduled for payment following Final Acceptance of such Services.
6. Payment for Work Orders for BI Service Packages shall be due and payable following Final Acceptance for such Services.

EXHIBIT C
ATTACHMENT 4

WORK ORDER PROJECT SCHEDULE

Each Work Order shall include a mutually agreed upon Project Schedule for completing the tasks and deliverables defined in the Work Order SOS, prepared in accordance with Exhibit C (Work Order Process). The timelines defined in such Project Schedule shall be subject to all the terms and conditions in the Agreement relating to completion of Services hereunder.

EXHIBIT C
ATTACHMENT 5

WORK ORDER ACCEPTANCE FORM

Work Order Number	
Department	
Department Project Manager	
Date	

WORK ORDER DELIVERABLE/PROJECT DEFINITION

WORK ORDER DELIVERABLE/PROJECT ACCEPTANCE DEFINITION

Deliverable/Project Approval

Signature

Date

County's Project Manager

Department Project Manager

Contractor's Project Manager

EXHIBIT D

CHANGE ORDER PROCESS

The following represents the work flow process for defining and executing Change Orders under this Agreement. A task or a deliverable may only be changed to meet the intent of the original Work Order Statement of Services. The original scope of the Work Order may not be altered without closing this Work Order SOS and defining a new Work Order SOS.

1. Change Order Initiation:

- a. A County Department issues a request for Change Order.
- b. Contractor schedules a meeting with the Department to initiate revision to the Statement of Services.
- c. Contractor is provided with an updated review of the current application and the business process it supports.
- d. Contractor and Department schedule a Joint Application Design (JAD) session to refine the Change Order SOS.

2. Change Order Statement Of Services (SOS):

The revised Work Order SOS (Change Order Statement of Services) shall at a minimum include the following sections, if revised by the Change Order:

- a. Application system design documentation.
- b. Detailed description of tasks, subtasks, milestones and deliverables.
- c. Detailed project plan.
- d. Identification of all required County and Contractor resources and staff.
- e. Detailed cost documentation including cost calculation worksheet.
- f. Work Order technical development process.
- g. Acceptance Criteria.
- h. Data Refresh Period and Data Refresh Event, if applicable.
- i. Applicable Warranties, if applicable.

3. Change Order Submission:

- a. Contractor and Department fill out and execute the Change Order Submission Form (Attachment 1) along with the following documents attached, if applicable:
 - i. Change Order Statement of Services (Attachment 2)
 - ii. Change Order Payment Schedule (Attachment 3)
 - iii. Change Order Project Schedule (Attachment 4)
- b. Contractor and Department submit Change Order Submission Form, with all Attachments thereto, to County's Project Manager for approval.

4. Work Order Attachments 2 through 4 shall be replaced or amended, as applicable, by the corresponding Change Order Attachments 2 through 4 respectively. With the exception of the changes under the executed Change Order, the Work Orders shall be processed in accordance with the criteria set above in Exhibit C (Work Order Process).

EXHIBIT D
ATTACHMENT 1

CHANGE ORDER SUBMISSION FORM

Work Order Number	
Change Order Number	
Department	
Department Project Manager	
Date	

CHANGE ORDER BRIEF REASON, DESCRIPTION AND SUMMARY

WORK ORDER PROJECT TASK AND/OR DELIVERABLE

REVISED PROJECT TASK AND/OR DELIVERABLE

REVISED PROJECT SCHEDULE, IF APPLICABLE

REVISED PAYMENT SCHEDULE, IF APPLICABLE E

Change Order Approval

Signature

Date

Change Order Number Assigned

County's Project Manager

Department Project Manager

Contractor's Project Manager

EXHIBIT D
ATTACHMENT 2

CHANGE ORDER STATEMENT OF SERVICES (SOS)

The Change Order Statement of Services (SOS) shall either replace or amend the Work Order Statement of Services (SOS) and shall be submitted along with the Change Order as Attachment 2 in accordance with Exhibit D (Change Order Process). The Change Order SOS shall include the following revised information for each of the Service types:

1. Application systems design documentation:
Department will provide the Contractor with all applicable documentation for the Business Intelligence project. Department and Contractor shall meet and develop and agree upon a high level systems design that will meet the objectives of the project.
2. Detailed description of tasks, subtasks, milestones and deliverables:
Department and Contractor shall meet and define, develop and agree upon the tasks, subtasks, milestones and deliverable descriptions for the project.
3. Identification of all required County and Contractor resources and staff:
Department and Contractor shall meet and identify and agree upon County employees and Cognos consultants responsible for the successful completion of each tasks, subtasks, milestones and deliverable.
4. Detailed project plan:
Department and Contractor shall meet and develop and agree upon a detailed project plan to accomplish the project's tasks, subtasks, milestones and deliverables and persons assigned to these tasks, subtasks, milestones and deliverables as defined above.
5. Detailed cost documentation, including cost calculation worksheet:
Department and Contractor shall meet and develop and agree upon the hours to accomplish the tasks, subtasks, milestones and deliverables as identified in the detailed project plan.
6. Work Order technical development process:
Department and Contractor shall meet and develop and employ Cognos Business Intelligence tools to construct the project deliverables.
7. Acceptance Criteria:
Department and Contractor shall agree upon the Acceptance Criteria for testing, the Data Refresh Period for a Data Refresh Event and the Warranty Period with respect to any deliverables to be delivered in the course of performing the Services.
8. Initial Acceptance:
Initial Acceptance shall be achieved upon successful completion, delivery and Acceptance of all Services under the Work Order in accordance with the applicable Acceptance Criteria, when Contractor submits the project to the Department as ready for Production Use, if applicable.

9. Data Refresh Period (Consulting Services):
For Consulting Services, Department determines the reporting period (Data Refresh Period) during which the data has been refreshed (Data Refresh Event) and the Department requires a new report. The project must work as defined before and after that defined period. The Department and Contractor are to agree upon the Data Refresh Period, the Data Refresh Event and the Acceptance Criteria by which the project shall be judged to work and document these in the Work Order.
10. Final Acceptance:
Final Acceptance shall be achieved upon Acceptance of all Services under the Work Order in accordance with the applicable Acceptance Criteria, immediately after completion of the Data Refresh Period and Data Refresh Event, if applicable.
11. Work Order Warranties:
Department and Contractor shall agree upon the applicable warranties for the project as described in Exhibit D (Change Order Process).

The Change Order SOS replacing the original Work Order SOS shall also contain the information that is unchanged by the Change Order.

EXHIBIT D
ATTACHMENT 3

CHANGE ORDER PAYMENT SCHEDULE

Should the Change Order revise the Work Order Payment Schedule, Change Order Payment Schedule shall be submitted along with the Change Order as Attachment 3 in accordance with Exhibit D (Change Order Process) and shall replace the revised Work Order Payment Schedule. Services provided by Contractor under this Agreement shall be paid as described in such Change Order Payment Schedule as outlined below:

1. Payment for Work Orders for Installation Services shall be due and payable following Final Acceptance for such Services.
2. Payment for Work Orders for Training Services shall be due and payable following Final Acceptance for such Services.
3. Payment for Work Orders for BI QuickStart Services shall be due and payable following Final Acceptance for such Services.
4. Payment for Work Orders for Professional Services shall be due and payable following Final Acceptance for such Services.
5. Payment for Work Orders for Consulting Services deliverables Accepted by County during the Warranty Period shall be due and payable within 15 days following the end of the Warranty Period for such deliverable and shall be scheduled as follows:
 - i. Seventy percent (70%) of the total Work Order amount shall be divided among the Consulting Services project deliverables as agreed upon by the Department and Cognos and may be scheduled for payment upon successful completion by Contractor and Acceptance by county of the following milestones:
 - Work Order Development Process.
 - Work Order Initial Acceptance.
 - ii. The remaining thirty percent (30%) of the Work Order amount shall be scheduled for payment following Final Acceptance of such Services.
6. Payment for Work Orders for BI Service Packages shall be due and payable following Final Acceptance for such Services.

EXHIBIT D
ATTACHMENT 4

CHANGE ORDER PROJECT SCHEDULE

Should the Change Order revise the Work Order Project Schedule for completing the tasks, subtasks, milestones and deliverables in the Work Order SOS. Change Order Project Schedule shall be submitted in accordance with Exhibit D along with the Change Order as Attachment 4 and shall replace the revised Work Order Project Schedule. The timelines in the Change Order Project Schedule shall be subject to all the terms in the Agreement relating to completion of work.

EXHIBIT E

CONTRACTOR EMPLOYEE ACKNOWLEDGEMENT, CONFIDENTIALITY AND ASSIGNMENT AGREEMENT

CONTRACT NUMBER: _____

COUNTY DEPARTMENT: _____

WORK ORDER NAME: _____

WORK ORDER NUMBER: _____

CONTRACTOR/EMPLOYER NAME: _____

CONTRACTOR NUMBER: _____

GENERAL INFORMATION:

The organization identified above ("Contractor") is under contract ("Contract") to provide certain services to the County of Los Angeles ("County"). The County requires each employee of this Contractor performing services under this Contract to understand his/her obligations with respect to the personal and proprietary data with which he/she will be in contact, and to acknowledge such obligations by executing this Contractor Employee Acknowledgment, Confidentiality and Assignment Agreement.

EMPLOYEE STATUS ACKNOWLEDGMENT:

The Contractor referenced above is my sole employer under the above-referenced Contract. I understand and agree that I must rely exclusively upon my employer for payment of salary and any and all other benefits payable to me or on my behalf by virtue of my performance of services under the above-referenced Contract.

I understand and agree that I am not an employee of the County for any purpose whatsoever and I do not have and will not acquire any rights or benefits of any kind whatsoever from the County by virtue of my performance under such Contract. I understand and agree that I do not have and will not acquire any rights or benefits from the County of Los Angeles pursuant to any agreement between any person or entity and the County of Los Angeles.

I understand and agree that I may be required to undergo a background and security investigation(s). I understand and agree that my continued performance of services under the above-referenced Contract is contingent upon my passing, to the satisfaction of the County, any and all such investigations. I understand and agree that my failure to pass, to the satisfaction of the County, any such investigation shall result in my immediate release from performance under this Contract and/or any future contracts.

CONFIDENTIALITY AGREEMENT:

My work may be concerned with services provided by the County, and therefore I may have access to confidential data and information pertaining to private individuals and/or entities receiving such services. I may also have access to proprietary information belonging to other organizations doing business with the County. The County has a legal obligation to keep confidential all such data and information in its possession, especially data and information concerning health, criminal and welfare recipient records. I understand that, by virtue of my involvement in County work, I too must protect the confidentiality of such data and information. I understand I must sign this agreement to be eligible to perform work for my employer under the County Contract. I have read this agreement and have taken due time to consider it prior to signing.

I agree not to disclose to nor reproduce for the benefit of any unauthorized person, any data or information obtained while performing work under the above-referenced Contract between my employer and the County. I agree to forward all requests for disclosure or copying of any such data or information in my possession or care to my immediate supervisor. The parties hereby acknowledge and agree that no obligation of confidentiality applies to residual knowledge learned (such as ideas, concepts know-how or techniques) and experience gained by me as a result of performing the Services. In addition, nothing herein shall prevent me or Contractor from providing to others similar services to the Services, subject to any obligations of confidentiality.

I agree to keep confidential all health, criminal and welfare recipient records, all data and information pertaining to persons and/or entitles receiving services from the County, all design concepts, algorithms, programs, formats, documentation, Contractor's proprietary information, and all other original materials produced, created or provided to or by me under the above-referenced Contract. I agree to protect these confidential materials against disclosure to other than my employer or County employees who have a need to know the information. I agree that if proprietary information supplied by other County vendors is provided to me during this employment, I shall keep such information confidential.

I agree to report to my immediate supervisor any and all unauthorized disclosures or copying of confidential or proprietary data or information, whether accidental or intentional, and whether by myself and/or by any other person, of which I become aware. I agree to return all confidential materials to my immediate supervisor upon completion of this Contract or upon termination of my employment with employer, whichever occurs first.

SIGNED: _____ DATE: ____/____/____

PRINTED: _____ POSITION: _____

ASSIGNMENT OF PROPRIETARY RIGHTS:

As used in this agreement, "Works" means (i) any inventions, trade secrets, ideas, original works of authorship or Confidential Information (as defined below) that I conceive, develop, discover or make in whole or in part during my employment with Contractor which relates to the Contract, (ii) any inventions, trade secrets, ideas, original works of authorship or Confidential Information (as defined below) that I conceive, develop, discover or make in whole or in part during or after my employment with Contractor which are made through the use of any of Contractor's equipment, facilities, supplies, trade secrets or time, or which result from any work I perform for Contractor, and (iii) any part or aspect of any of the foregoing. "Confidential Information" means all information or material disclosed to or known by me as a consequence of my employment with Contractor, including third party information or information disclosed by County that Contractor treats as confidential, and any information disclosed to or developed by me or embodied in or relating to the Works.

All Works shall belong exclusively to Contractor whether or not fixed in a tangible medium of expression. Without limiting the foregoing, to the maximum extent permitted under applicable law, all Works shall be deemed to be "works made for hire" under the United States Copyright Act, and Contractor shall be deemed to be the author thereof.

If and to the extent any Works are determined not to constitute "works made for hire," or if any rights in the Works do not accrue to Contractor as a work made for hire, I irrevocably assign and transfer to Contractor to the maximum extent permitted by law all right, title and interest in the Works, including but not limited to all copyrights, patents, trade secret rights, and other proprietary rights in or relating to the Works. Without limiting the foregoing, I irrevocably assign and transfer to Contractor all economic rights to the Works, including without limitation the exclusive and unrestricted right to reproduce, manufacture, use, adapt, modify, publish, distribute, sublicense, publicly perform and communicate, translate, lease, import, export, transfer, convey and otherwise exploit the Works.

I expressly approve any and all modifications, uses, publications and other exploitation of the Works that Contractor or any successor or transferee of Contractor may elect to make, and I expressly agree that no such modifications, uses, publications or exploitations will or may cause harm to my honor or reputation, or will be deemed to constitute a distortion or mutilation of the Works.

I agree to provide any assistance reasonably requested by Contractor, now and in the future, to obtain United States or foreign letters patent and copyright registrations covering inventions and original works of authorship belonging or assigned to Contractor. I shall execute any transfers of ownership of letters patent or assignments of copyrights or other proprietary rights transferred or assigned hereunder (including short form assignments intended for recording with the U.S. Copyright Office, the U.S. Patent and Trademark Office or any other entity). If Contractor is unable for any reason whatsoever, including my mental or physical incapacity, to secure my signature to apply for or to pursue any application for any United States or foreign letters patent or copyright registrations or on any document transferring or assigning any patent, copyright or other proprietary right that I am obligated to transfer or assign, I irrevocably designate and appoint Contractor and its duly authorized officers and agents as my agent and attorney in fact, to act for and on its behalf and stead to execute and file any such applications and documents and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations or transfers or assignments thereof or of any other proprietary rights with the same legal force and effect as if executed by me. This appointment is coupled with an interest and is irrevocable.

This agreement shall be construed in accordance with the provisions of Section 2870 of the California Labor Code (the text of which follows) relating to inventions made by an employee. Accordingly, this agreement is not intended and shall not be interpreted to assign to or vest in Contractor any of my rights in any inventions developed entirely on my own time without using Contractor's equipment, supplies, facilities, or trade secret information, except for those inventions that either relate at the time of conception or reduction to practice of the invention to Contractor's business or the actual or demonstrably anticipated research or development of Contractor, or result from any work I performed for Contractor.

California Labor Code Section 2870. Employment Agreements; Assignment of Rights

- (a) Any provision in an employment agreement which provides that an employee shall assign or offer to assign any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:
 - (1) Relate at the time of conception or reduction to practice of the invention to the employer's business or actual or demonstrably anticipated research or development of the employer; or
 - (2) Result from any work performed by the employee for the employer.
- (b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.

I expressly acknowledge and agree that I wish to remain anonymous and not to have my name or any pseudonyms used in connection with any Works, goods or services I provide under this agreement or the above referenced Contract.

I acknowledge that violation of this agreement may cause irreparable harm to County, which may not be compensated by monetary damages, and may subject me to civil and/or criminal action and that the County of Los Angeles may seek all possible legal and equitable redress, including, without limitation, injunctive relief.

SIGNED: _____ DATE: ____/____/____

PRINTED: _____ POSITION: _____

EXHIBIT F

CONTRACTOR'S EEO CERTIFICATION

Cognos Corporation

Company Name

15 Wayside Drive, Burlington, MA 01803

Address

94-276-3235

Internal Revenue Service Employer identification Number

GENERAL

In accordance with provisions of the County Code of the County of Los Angeles, the Contractor, supplier, or vendor certifies and agrees that all persons employed by such firm, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, religion, ancestry, national origin, or sex and in compliance with all anti-discrimination laws of the United States of American and the State of California.

CERTIFICATION	YES	NO
1. Contractor has written policy statement prohibiting discrimination in all phases of employment.	(X)	()
2. Contractor periodically conducts a self-analysis or utilization analysis of its work force.	(X)	()
3. Contractor has a system for determining if its employment practices are discriminatory against protected groups.	(X)	()
4. When areas are identified in employment practices, Contractor has a system for taking reasonable corrective action to include establishment of goal and/or timetables.	(X)	()

Jeffrey J. Ott
Signature

03-25-05
Date

JEFFREY J. OTT , DIRECTOR
Name and Title of Signer (please print)

EXHIBIT G

BUSINESS ASSOCIATE PROTECT HEALTH INFORMATION DISCLOSURE AGREEMENT

_____, Business Associate

This Business Associate Protected Health Information Disclosure Agreement ("Agreement") is entered into effective this _____ day of _____, 2005 ("Effective Date") by and between the County of Los Angeles ("Covered Entity") and Cognos Corporation, a Delaware corporation ("Business Associate").

RECITALS

WHEREAS, the parties have executed a Business Intelligence Software Services Agreement ("Services Agreement"), whereby Business Associate provides Services to Covered Entity, and Business Associate receives, has access to or creates Protected Health Information in order to provide those Services;

WHEREAS, Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations Parts 160 and 164 ("Privacy Regulations");

WHEREAS, the Privacy Regulations require Covered Entity to enter into a contract with Business Associate in order to mandate certain protections for the privacy and security of Protected Health Information, and those Regulations prohibit the disclosure to or use of Protected Health Information by Business Associate if such a contract is not in place;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

DEFINITIONS

1.1 "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its employees.

1.2 "Individual" means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

1.3 "Protected Health Information" has the same meaning as the term "protected health information" in 45 C.F.R. § 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity. Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to

an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is received by Business Associate from or on behalf of Covered Entity, or is created by Business Associate, or is made accessible to Business Associate by Covered Entity.

1.4 “Required By Law” means a mandate contained in law that compels an entity to make a Use or Disclosure of Protected Health Information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or any administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing benefits.

1.5 “Services” has the same meaning as in the Services Agreement.

1.6 “Use” or “Uses” mean, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate’s internal operations.

1.7 Terms used, but not otherwise defined, in this Agreement and the Services Agreement shall have the same meaning as those terms in the Privacy Regulations.

OBLIGATIONS OF BUSINESS ASSOCIATE

2.1 Permitted Uses and Disclosures of Protected Health Information. Business Associate:

- (a) shall Use and Disclose Protected Health Information as necessary to perform the Services, and as provided in Sections 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 4.3 and 5.2 of this Agreement;
- (b) shall Disclose Protected Health Information to Covered Entity upon request;
- (c) may, as necessary for the proper management and administration of its business or to carry out its legal responsibilities:
 - (i) Use Protected Health Information; and
 - (ii) Disclose Protected Health Information if the Disclosure is Required by Law.

Business Associate shall not Use or Disclose Protected Health Information for any other purpose.

2.2 Adequate Safeguards for Protected Health Information. Business Associate warrants that it shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information in any manner other than as permitted by this Agreement. Business Associate agrees to limit the Use and Disclosure of Protected Health Information to the minimum necessary in accordance with the Privacy Regulation’s minimum necessary standard.

2.3 Reporting Non-Permitted Use or Disclosure. Business Associate shall report to Covered Entity each Use or Disclosure that is made by Business Associate, its employees, representatives, agents or subcontractors but is not specifically permitted by this Agreement. The initial report shall be made by telephone call to the applicable Department Privacy Officer within forty-eight (48) hours from the time the Business Associate becomes aware of the non-permitted Use or Disclosure, followed by a full written report no later than ten (10) business days from the date the Business Associate becomes aware of the non-permitted Use or Disclosure to the Chief Information Privacy Officer at:

Chief Information Privacy Officer
Kenneth Hahn Hall of Administration
500 West Temple St.
Suite 493
Los Angeles, CA 90012

2.4 Mitigation of Harmful Effect. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

2.5. Availability of Internal Practices, Books and Records to Government Agencies. Business Associate agrees to make its internal practices, books and records relating to the Use and Disclosure of Protected Health Information available to the Secretary of the federal Department of Health and Human Services for purposes of determining Covered Entity's compliance with the Privacy Regulations. Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.

2.6 Access to Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and copy that Protected Health Information. Business Associate shall provide such access for inspection of that Protected Health Information within two (2) business days after receipt of request from Covered Entity. Business Associate shall provide copies of that Protected Health Information within five (5) business days after receipt of request from Covered Entity.

2.7 Amendment of Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make any amendments to Protected Health Information that are requested by Covered Entity. Business Associate shall make such amendment within ten (10) business days after receipt of request from Covered Entity in order for Covered Entity to meet the requirements under 45 C.F.R. § 164.526.

2.8 Accounting of Disclosures. Upon Covered Entity's request, Business Associate shall provide to Covered Entity an accounting of each Disclosure of Protected Health Information made by Business Associate or its employees, agents, representatives or subcontractors.

Any accounting provided by Business Associate under this Section 2.8 shall include: (a) the date of the Disclosure; (b) the name, and address if known, of the entity or person who received the Protected

Health Information; (c) a brief description of the Protected Health Information disclosed; and (d) a brief statement of the purpose of the Disclosure. For each Disclosure that could require an accounting under this Section 2.8, Business Associate shall document the information specified in (a) through (d), above, and shall securely maintain the information for six (6) years from the date of the Disclosure. Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of request from Covered Entity, information collected in accordance with this Section 2.8 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

OBLIGATION OF COVERED ENTITY

3.1 Obligation of Covered Entity. Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the use of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own uses and disclosures accordingly.

TERM AND TERMINATION

4.1 Term. The term of this Agreement shall be the same as the term of the Services Agreement. Business Associate's obligations under Sections 2.1 (as modified by Section 4.2), 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 4.3 and 5.2 shall survive the termination or expiration of this Agreement.

4.2 Termination for Cause. In addition to and notwithstanding the termination provisions set forth in the Services Agreement, upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

- (a) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Services Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;

- (b) Immediately terminate this Agreement and the Services Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or

- (c) If neither termination nor cure are feasible, Covered Entity shall report the violation to the Secretary of the federal Department of Health and Human Services.

4.3 Disposition of Protected Health Information Upon Termination or Expiration.

- (a) Except as provided in paragraph (b) of this Section 4.3, upon termination for any reason or expiration of this Agreement and the Services Agreement, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

- (b) In the event that Business Associate determines that returning or destroying the Protected

Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make infeasible. If return or destruction is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further Uses and Disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

MISCELLANEOUS

5.1 No Third Party Beneficiaries. Nothing in this Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

5.2 Use of Subcontractors and Agents. Business Associate shall require each of its agents and subcontractors that receive Protected Health Information from Business Associate, or create Protected Health Information for Business Associate, on behalf of Covered Entity, to execute a written agreement obligating the agent or subcontractor to comply with all the terms of this Agreement.

5.3 Relationship to Services Agreement Provisions. In the event that a provision of this Agreement is contrary to a provision of the Services Agreement, the provision of this Agreement shall control. Otherwise, this Agreement shall be construed under, and in accordance with, the terms of the Services Agreement.

5.4 Regulatory References. A reference in this Agreement to a section in the Privacy Regulations means the section as in effect or as amended.

5.5 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Regulations.

5.6 Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Regulations.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date stated above.

COGNOS CORPORATION:

COUNTY OF LOS ANGELES:

Jeffrey J. Ott

By: Jeffrey J. Ott

By: _____

Title: Director

Title: _____

Dated: 03-14-2005

Dated: _____

SAFELY SURRENDERED BABY LAW

Certainly we would prefer that women seek help while they are pregnant, not after giving birth, to receive proper medical care and counseling. But at the same time, we want to assure parents who choose not to keep their baby that they will not go to jail if they deliver their babies to safe hands in a hospital emergency room.

The California Safely Surrendered Baby Law:

Allows a distressed birth parent(s) to legally, confidentially, and safely surrender their baby.

Provides a safe place for babies.

Protects the parent(s) from arrest or prosecution for abandonment as long as the baby has not been abused or neglected.

Does not require that names be given when the baby is surrendered.

Permits parents to bring a baby within 3 days of birth to any hospital emergency room in California.

In California, no one ever has to abandon a child again.



State of California
 Gray Davis, Governor
Health and Human Services Agency
 Grantland Johnson, Secretary
Department of Social Services
 Rita Saenz, Director

FUR 400 (5/02)

**no shame.
 no blame.
 no names.**

**now there's a way
 to safely surrender
 your baby**



What is the Safely Surrendered Baby Law?

It's a new law. Under this law, a person may surrender their baby confidentially. As long as the baby has not been abused or neglected, the person may do so without fear of arrest or prosecution.

How does it work?

A distressed parent who is unable or unwilling to care for an infant can legally, confidentially and safely surrender their baby within 3 days of birth. All that is required is that the baby be brought to a hospital emergency room in California. If there are additional places, they will be listed on the back of this brochure. As long as the child shows no signs of abuse or neglect, no name or other information is required. A bracelet will be placed on the baby for identification. A matching bracelet will be given to the parent. The bracelet will help connect the parent to the baby if the parent wants the baby back.

Can only a parent bring in the baby?

In most cases, a parent will bring in the baby. The law allows another person to bring in the baby if they have legal custody.

Does the parent have to call before bringing in the baby?

No. A parent can bring in a baby anytime, 24 hours a day, 7 days a week.

Does a parent have to tell anything to the people taking the baby?

No. Nothing is required. However, hospital personnel will give the parent a medical information questionnaire that is designed to gather family medical history. This could be very useful in caring for the child but it is up to the parent to complete it.

What happens to the baby?

The baby will be examined and given medical treatment, if needed. Then the baby will be placed in a foster or pre-adoptive home.

What happens to the parent?

Once the parent(s) has safely turned over the baby, they are free to go.

What if a parent wants the baby back?

The parent(s) may take the bracelet back to the hospital. Hospital personnel will provide information about the baby.

Why is California doing this?

The purpose of the Safely Surrendered Baby Law is to protect babies from being hurt or killed because they were abandoned.

You may have heard tragic stories of babies left in dumpsters or public toilets. The persons who committed these acts may have been under severe emotional distress. The mothers may have hidden their pregnancies, fearful of what would happen if their families found out. Because they were afraid and had nowhere to turn for help, they abandoned their infants.

Abandoning a baby puts the child in extreme danger. It is also illegal. Too often, it results in the baby's death. Because of the Safely Surrendered Baby Law, this tragedy doesn't ever have to happen in California again.

The Eighteenth Safely Surrendered Baby in California

At 8:30 a.m. on Thursday, July 25, 2002, a healthy newborn baby was brought to St. Bernardine Medical Center in San Bernardino under the provisions of the California Safely Surrendered Baby Law.

This baby was the eighteenth child protected under California's Safely Surrendered Baby Law. As the law states, the baby's mother did not have to identify herself. When the baby was brought to the emergency room, he was examined by a pediatrician, who determined that the baby was healthy and doing fine. He was placed in a foster home for short-term care while the adoption process was started.

Every baby deserves a chance for a healthy life.
If you or someone you know is considering
giving up a child, learn about your options.

**Los Angeles County
Safely
Surrendered
Baby
Hotline**



(877) BABY SAFE

Toll Free (877) 222-9723

- Call for Information on How to Safely Surrender a Newborn Infant Under the Safely Surrendered Baby Law
- Referrals Provided to Designated Safe Haven Sites
- Referrals Provided to Other Support Services
- Guaranteed Confidentiality
- 7 Days a Week
- 24 Hours a Day
- English and Spanish and 140 Other Languages Spoken



INFO LINE of Los Angeles has been in business since 1981.
INFO LINE of Los Angeles is an AIRS accredited agency.

Calls from the media should be directed to Thelma Bell or Michele Yoder at (626) 350-1841.